

1 AN ACT relating to public protection.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) A search warrant may be executed only within the period and at the times*
6 *authorized by the warrant and only by a peace officer. A peace officer charged*
7 *with its execution may be accompanied by such other persons as may be*
8 *reasonably necessary for the safe and successful execution of the warrant.*

9 *(2) Before entering the premises, the peace officer executing a search warrant shall:*

10 *(a) Physically knock on an entry door to the premises in a manner and*
11 *duration that can be heard by the occupants;*

12 *(b) Clearly announce in a manner that can be heard by the occupants that law*
13 *enforcement is executing a search warrant; and*

14 *(c) Wait a minimum of ten (10) seconds or for a reasonable amount of time for*
15 *occupants to respond, whichever is greater, before entering the premises.*

16 *(3) A peace officer executing a search warrant shall not make forcible entry into the*
17 *premises to be searched without a warrant specifically authorizing forcible entry.*

18 *(4) Before undertaking any search or seizure pursuant to a search warrant, the peace*
19 *officer shall read and give a copy of the warrant to the person to be searched, or*
20 *to the person in apparent control of the premises or property to be searched. If*
21 *the premises are unoccupied or there is no one in apparent control, the peace*
22 *officer shall leave a copy of the warrant suitably affixed to the premises.*

23 *(5) A peace officer shall not seek, execute, or participate in the execution of a search*
24 *warrant that does not require the persons executing the warrant to knock and*
25 *announce themselves and their purpose.*

26 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO
27 READ AS FOLLOWS:

1 (1) All peace officers present in the execution of a search warrant shall be equipped
2 with an operating body-worn camera.

3 (2) Each peace officer shall activate his or her body-worn camera no later than five
4 (5) minutes prior to the execution of the search warrant, and shall not deactivate
5 the body-worn camera earlier than five (5) minutes following the completion of
6 the execution of the search warrant.

7 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO
8 READ AS FOLLOWS:

9 Notwithstanding KRS 15.520, 67C.326, or 95.450, or any other statute to the contrary,
10 any peace officer who violates Section 1 or 2 of this Act may be subject to disciplinary
11 action, including suspension or dismissal.

12 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
13 READ AS FOLLOWS:

14 (1) A peace officer shall wear and activate a body-worn camera when responding to
15 a call for service or during any interaction with the public initiated by the peace
16 officer, whether consensual or nonconsensual, for the purpose of enforcing the
17 law or investigating possible violations of the law.

18 (2) If a peace officer fails to activate a body-worn camera as required by this section
19 or Section 2 of this Act, or tampers with body-worn camera footage or operation
20 when required to activate the camera, there shall be a rebuttable presumption in
21 any investigative or legal proceeding, excluding criminal proceedings against the
22 peace officer, that the missing footage would have reflected misconduct by the
23 peace officer.

24 (3) If a peace officer fails to activate his or her body-worn camera as required by this
25 section or Section 2 of this Act, or tampers with body-worn camera footage or
26 operation when required to activate the camera, there shall be a rebuttable
27 presumption of inadmissibility of any statements sought to be introduced in a

1 prosecution through the peace officer related to the incident which:

2 (a) Were not recorded due to the peace officer's failure to activate the body-
3 worn camera; or

4 (b) Were not recorded by other means.

5 (4) In addition to any criminal liability and penalty under the law:

6 (a) If a court, administrative law judge, hearing officer, or a final decision in
7 an internal investigation finds that a peace officer intentionally failed to
8 activate or tampered with any body-worn camera, the peace officer's
9 employer shall impose discipline up to and including termination; and

10 (b) If a court, administrative law judge, hearing officer, or a final decision in
11 an internal investigation finds that a peace officer intentionally failed to
12 activate or tampered with any body-worn camera and acted with the intent
13 to conceal unlawful or inappropriate actions or obstruct justice:

14 1. Except as provided in subparagraph 2. of this paragraph, the peace
15 officer's certification pursuant to KRS 15.380 to 15.404 shall be
16 revoked for a period of not less than one (1) year and the revocation
17 may only be lifted within the period of the revocation if the peace
18 officer is exonerated by a court; and

19 2. If the incident resulted in a civilian death, the peace officer's
20 certification pursuant to KRS 15.380 to 15.404 shall be revoked
21 permanently and the revocation may only be overturned if the peace
22 officer is exonerated by a court.

23 ➔Section 5. KRS 61.168 is amended to read as follows:

24 (1) As used in this section:

25 (a) "Body-worn camera" means a video or audio electronic recording device that
26 is carried by or worn on the body of a public safety officer. This definition
27 does not include a dashboard mounted camera or recording device used in the

1 course of clandestine investigations;

2 (b) "Body-worn camera recording" or "recording" means a video or audio
3 recording, or both, that is made by a body-worn camera during the course of a
4 public safety officer's official duties;

5 (c) "Personal representative" means a court-appointed guardian, attorney, or agent
6 possessing written authorization to act on behalf of a person that is involved in
7 an incident contained in a body-worn camera recording, a person holding a
8 power of attorney for a person that is involved in an incident contained in a
9 body-worn camera recording, or the parent or guardian of a minor child
10 depicted in a body-worn camera recording. If a person depicted in the
11 recording is deceased, the term also means the personal representative of the
12 estate of the deceased person, the deceased person's surviving spouse, parent,
13 or adult child, the deceased person's attorney, or the parent or guardian of a
14 surviving minor child of the deceased;

15 (d) "Public agency" has the same meaning as in KRS 61.870(1);

16 (e) "Public safety officer" means any individual that is an employee of a public
17 agency who is certified as a first responder under KRS Chapter 311A or
18 whose employment duties include law enforcement or firefighting activities;
19 and

20 (f) "Use of force" means any action by a public safety officer that results in death,
21 physical injury as defined in KRS 500.080(13), discharge of a personal body
22 weapon, chemical agent, impact weapon, extended range impact weapon,
23 sonic weapon, sensory weapon, conducted energy weapon, or a firearm, or
24 involves the intentional pointing of a public safety officer's firearm at a
25 member of the public.

26 (2) Except as provided in this section, the disclosure of body-worn camera recordings
27 shall be governed by the Kentucky Open Records Act, as set forth in KRS 61.870 to

1 61.884.

2 (3) The retention of body-worn camera video recordings shall be governed by KRS
3 171.410 to 171.740, and the administrative regulations promulgated by the
4 Kentucky Department of Libraries and Archives.

5 (4) Notwithstanding KRS 61.878(4), unless the request meets the criteria provided
6 under subsection (5) of this section, a public agency may elect not to disclose body-
7 worn camera recordings containing video or audio footage that:

8 (a) Includes the interior of a place of a private residence where there is a
9 reasonable expectation of privacy, unless the legal owner or lessee with legal
10 possession of the residence requests in writing that the release be governed
11 solely under the provisions of KRS 61.870 to 61.884;

12 (b) Includes the areas inside of a medical facility, counseling, or therapeutic
13 program office where a patient is registered to receive treatment, receiving
14 treatment, waiting for treatment, or being transported in the course of
15 treatment;

16 (c) Would disclose health care information shared with patients, their families, or
17 with a patient's care team or that is considered protected health information
18 under the Health Insurance Portability and Accountability Act of 1996;

19 (d) Includes the areas inside of a correctional facility when disclosure would
20 reveal details of the facility that would jeopardize the safety, security, or well-
21 being of those in custody, the staff of the correctional facility, or law
22 enforcement officers;

23 (e) Is of a sexual nature or video footage that contains nude images of an
24 individual's genitals, pubic area, anus, or the female nipple;

25 (f) Is of a minor child, including but not limited to footage involving juvenile
26 custody matters;

27 (g) Includes the body of a deceased individual;

- 1 (h) Would reveal the identity of witnesses, confidential law enforcement
2 informants, or undercover law enforcement officers, or if the release could
3 jeopardize the safety, security, or well-being of a witness or confidential
4 informant;
- 5 (i) Would reveal the location information of a domestic violence program or
6 emergency shelter;
- 7 (j) Would reveal information related to schools, colleges, and universities that is
8 protected by the federal Family Educational Rights and Privacy Act;
- 9 (k) Would result in the disclosure of nonpublic or confidential data classified as
10 Criminal Justice Information Services data by the Federal Bureau of
11 Investigation;
- 12 (l) Includes a public safety officer carrying out duties directly related to the
13 hospitalization of persons considered mentally ill;
- 14 (m) Includes the depiction of the serious injury or death of a public safety officer;
15 or
- 16 (n) Includes footage made in conjunction with a law enforcement exercise that
17 includes special response team actions, hostage negotiations, or training
18 events, but only where the public release of tactics, operational protocol, or
19 methodology would disadvantage the capability of public safety officers to
20 successfully respond in emergency or other dangerous situations.
- 21 (5) If the recording contains video or audio footage that:
- 22 (a) Depicts an encounter between a public safety officer where there is a use of
23 force, the disclosure of the record shall be governed solely by the provisions
24 of KRS 61.870 to 61.884, including all of the exceptions contained therein;
- 25 (b) Depicts an incident which leads to the detention or arrest of an individual or
26 individuals, the disclosure of the record shall be governed solely by the
27 provisions of KRS 61.870 to 61.884, including all of the exceptions contained

1 therein;

2 (c) Depicts an incident which is the subject of a formal complaint submitted
3 against a public safety officer under KRS 15.520, 67C.326, or 95.450, or
4 depicts an incident which is the subject of a formal legal or administrative
5 complaint against the agency employing the public safety officer, *the law*
6 *enforcement agency shall release all unedited video and audio recordings of*
7 *the incident, including those from body-worn cameras, or otherwise*
8 *collected through investigation, to the public within twenty-one (21) days*
9 *after the law enforcement agency received the complaint of misconduct.*
10 *Any recording that would substantially interfere with or jeopardize an active*
11 *or ongoing investigation may be withheld from the public, except that the*
12 *recording shall be released no later than forty-five (45) days from the date*
13 *of the allegation of misconduct. In all cases when release of a recording is*
14 *delayed in reliance on this subsection, the prosecuting attorney shall*
15 *prepare a written explanation of the interference or jeopardy that justifies*
16 *the delayed release, contemporaneous with the refusal to release the video*
17 *or audio recording. The explanation shall be released to the public no later*
18 *than the release of the video or audio recording*~~the release of the record~~
19 ~~shall be governed by the provisions of KRS 61.870 to 61.884, including all of~~
20 ~~the exceptions contained therein];~~

21 *(d) Depicts an incident which resulted in a death, the recording shall be*
22 *provided upon request to the victim's personal representative, and the*
23 *personal representative shall be notified of his or her right to receive and*
24 *review the recording at least seventy-two (72) hours prior to public*
25 *disclosure; or*

26 *(e)*~~*(d)*~~ Is requested by a person or other entity or the personal representative of
27 a person or entity that is directly involved in the incident contained in the

1 body-worn camera recording, it shall be made available by the public agency
 2 to the requesting party for viewing on the premises of the public agency, but
 3 the public agency shall not be required to make a copy of the recording except
 4 as provided in KRS 61.169. The requesting parties shall not be limited in the
 5 number of times they may view the recording under this paragraph.

6 (6) Nothing in this section or KRS 61.169 shall be interpreted to override any provision
 7 related to:

8 (a) Reports by law enforcement officers and criminal justice agencies under KRS
 9 17.150;

10 (b) The law and rules governing discovery or the submission and display of
 11 evidence in any court proceeding, whether criminal or civil, or any
 12 administrative proceeding; or

13 (c) The provisions of KRS 189A.100.

14 **(7) A witness, victim, or criminal defendant, or other person with a privacy interest**
 15 **implicated in subsection (4) of this section or in KRS 61.878, may waive in**
 16 **writing the individual privacy interest that may be implicated by public release of**
 17 **a recording. Upon receipt of a written waiver of the applicable privacy interest,**
 18 **accompanied by a request for release, the law enforcement agency may not redact**
 19 **or withhold release to protect that privacy interest.**

20 ➔Section 6. KRS 344.450 is amended to read as follows:

21 **(1) Every**~~Any~~ **person who, under color of any statute, ordinance, regulation,**
 22 **custom, or usage of this state or any of its political subdivisions, subjects, or**
 23 **causes to be subjected, any person within the jurisdiction thereof to the**
 24 **deprivation of any rights, privileges, or immunities secured by the Constitution**
 25 **and laws of the Commonwealth of Kentucky, or by the United States Constitution**
 26 **or any statute of the United States, shall be liable to the party** injured~~by any act~~
 27 ~~in violation of the provisions of this chapter].~~

1 **(2) The party injured under subsection (1) of this section** shall have a civil cause of
 2 action in Circuit Court to enjoin further violations, and to recover the actual
 3 damages sustained, **punitive damages, and**~~together with~~ the costs of the
 4 **lawsuit**~~law suit~~. The court's order or judgment shall include a reasonable fee for
 5 the plaintiff's attorney of record and any other remedies contained in this chapter.

6 **(3) It shall not be a defense or immunity to any action brought pursuant to this**
 7 **section:**

8 **(a) That the defendant was acting in good faith;**

9 **(b) That the defendant believed, reasonably or otherwise, that his or her**
 10 **conduct was lawful at the time when it was committed;**

11 **(c) That the rights, privileges, or immunities secured by the federal or state**
 12 **Constitution or laws were not clearly established at the time of their**
 13 **deprivation by the defendant; or**

14 **(d) That the state of the law was otherwise such that the defendant could not**
 15 **reasonably have been expected to know whether his or her conduct was**
 16 **lawful.**

17 ➔Section 7. KRS 15.420 is amended to read as follows:

18 As used in KRS 15.410 to 15.510, unless the context otherwise requires:

19 (1) "Cabinet" means the Justice and Public Safety Cabinet;

20 **(2) "Deadly incident" means any use of deadly force by a police officer or an action**
 21 **taken in the line of duty by a police officer which results in the death or serious**
 22 **physical injury to another person;**

23 ~~(3)~~~~(2)~~ (a) "Police officer" means:

24 1. A local officer, limited to:

25 a. A full-time:

26 i. Member of a lawfully organized police department of county,
 27 urban-county, or city government; or

- 1 ii. Sheriff or full-time deputy sheriff, including any sheriff
2 providing court security or appointed under KRS 70.030; or
3 b. A school resource officer as defined in KRS 158.441; and
4 2. A state officer, limited to:
5 a. A public university police officer;
6 b. A Kentucky state trooper;
7 c. A Kentucky State Police arson investigator;
8 d. A Kentucky State Police hazardous device investigator;
9 e. A Kentucky State Police legislative security specialist;
10 f. A Kentucky vehicle enforcement officer;
11 g. A Kentucky Horse Park mounted patrol officer, subject to KRS
12 15.460(1)(f);
13 h. A Kentucky state park ranger, subject to KRS 15.460(1)(f);
14 i. An agriculture investigator;
15 j. A charitable gaming investigator;
16 k. An alcoholic beverage control investigator;
17 l. An insurance fraud investigator;
18 m. An Attorney General investigator; and
19 n. A Kentucky Department of Fish and Wildlife Resources
20 conservation officer, subject to KRS 15.460(1)(e);
21 who is responsible for the prevention and detection of crime and the
22 enforcement of the general criminal laws of the state;
23 (b) "Police officer" does not include any sheriff who earns the maximum
24 constitutional salary for this office, any special deputy sheriff appointed under
25 KRS 70.045, any constable, deputy constable, district detective, deputy district
26 detective, special local peace officer, auxiliary police officer, or any other
27 peace officer not specifically authorized in KRS 15.410 to 15.510;

1 ~~(4)~~~~(3)~~ "Police department" means the employer of a police officer;

2 ~~(5)~~~~(4)~~ "Retirement plan" means a defined benefit plan consisting of required
3 employer contributions pursuant to KRS 61.565, 61.702, or any other provision of
4 law;

5 ~~(6)~~~~(5)~~ "Unit of government" means any city, county, combination of cities and
6 counties, public university, state agency, local school district, or county sheriff's
7 office of the Commonwealth; and

8 ~~(7)~~~~(6)~~ "Validated job task analysis" means the core job description that describes the
9 minimum entry level requirements, qualifications, and training requirements for
10 peace officers in the Commonwealth, and that is based upon an actual survey and
11 study of police officer duties and responsibilities conducted by an entity recognized
12 by the council as being competent to conduct such a study.

13 ➔Section 8. KRS 15.440 is amended to read as follows:

14 (1) Each unit of government that meets the following requirements shall be eligible to
15 share in the distribution of funds from the Law Enforcement Foundation Program
16 fund:

17 (a) Employs one (1) or more police officers;

18 (b) Pays every police officer at least the minimum federal wage;

19 (c) Requires all police officers to have, at a minimum, a high school degree, or its
20 equivalent as determined by the council, except that each police officer
21 employed prior to the date on which the officer's police department was
22 included as a participant under KRS 15.410 to 15.510 shall be deemed to have
23 met the requirements of this subsection;

24 (d) 1. Requires all police officers to successfully complete a basic training
25 course of nine hundred twenty-eight (928) hours' duration within one (1)
26 year of the date of employment at a school certified or recognized by the
27 council, which may provide a different number of hours of instruction as

1 established in this paragraph, except that each police officer employed
2 prior to the date on which the officer's police department was included
3 as a participant under KRS 15.410 to 15.510 shall be deemed to have
4 met the requirements of this subsection.

5 2. As the exclusive method by which the number of hours required for
6 basic training courses shall be modified from that which is specifically
7 established by this paragraph, the council may, by the promulgation of
8 administrative regulations in accordance with the provisions of KRS
9 Chapter 13A, explicitly set the exact number of hours for basic training
10 at a number different from nine hundred twenty-eight (928) hours based
11 upon a training curriculum approved by the Kentucky Law Enforcement
12 Council as determined by a validated job task analysis.

13 3. If the council sets an exact number of hours different from nine hundred
14 twenty-eight (928) in an administrative regulation as provided by this
15 paragraph, it shall not further change the number of hours required for
16 basic training without promulgating administrative regulations in
17 accordance with the provisions of KRS Chapter 13A.

18 4. Nothing in this paragraph shall be interpreted to prevent the council,
19 pursuant to its authority under KRS 15.330, from approving training
20 schools with a curriculum requiring attendance of a number of hours that
21 exceeds nine hundred twenty-eight (928) hours or the number of hours
22 established in an administrative regulation as provided by subparagraphs
23 2. and 3. of this paragraph. However, the training programs and schools
24 for the basic training of law enforcement personnel conducted by the
25 department pursuant to KRS 15A.070 shall not contain a curriculum that
26 requires attendance of a number of hours for basic training that is
27 different from nine hundred twenty-eight (928) hours or the number of

1 hours established in an administrative regulation promulgated by the
2 council pursuant to the provisions of KRS Chapter 13A as provided by
3 subparagraphs 2. and 3. of this paragraph.

4 5. KRS 15.400 and 15.404(1), and subparagraphs 1. to 4. of this paragraph
5 to the contrary notwithstanding, the council may, through the
6 promulgation of administrative regulations in accordance with KRS
7 Chapter 13A, approve basic training credit for:

8 a. Years of service credit as a law enforcement officer with previous
9 service in another state; and

10 b. Basic training completed in another state.

11 6. KRS 15.400 and 15.404(1) and subparagraphs 1. to 4. of this paragraph
12 to the contrary notwithstanding, the council may, through the
13 promulgation of administrative regulations in accordance with KRS
14 Chapter 13A, approve basic training credit for:

15 a. Completion of eight hundred forty-eight (848) hours of training at
16 a school established pursuant to KRS 15A.070;

17 b. A minimum of fifteen (15) years of experience as a certified law
18 enforcement instructor at a school established pursuant to KRS
19 15A.070;

20 c. Completion of an average of forty (40) hours of Kentucky Law
21 Enforcement Council approved in-service training annually from
22 January 1, 1997, through January 1, 2020;

23 d. Completion of all mandatory training obligations under KRS
24 15.334 from January 1, 1997, to January 1, 2020;

25 e. Three (3) years of active, full-time service as a:

26 i. City, county, urban-county, charter county, consolidated
27 local, or unified local government police officer;

- 1 ii. Sheriff's deputy, excluding special deputies appointed under
2 KRS 70.045;
- 3 iii. Department of Kentucky State Police officer; or
- 4 iv. Kentucky Department of Fish and Wildlife Resources
5 conservation officer exercising peace officer powers under
6 KRS 150.090; and
- 7 f. Completion of the:
- 8 i. Twenty-four (24) hour legal update Penal Code course;
- 9 ii. Sixteen (16) hour legal update constitutional procedure
10 course; and
- 11 iii. Forty (40) hour basic officer skills course within one (1) year
12 prior to applying for certification;
- 13 (e) Requires all police officers to successfully complete each calendar year an in-
14 service training course, appropriate to the officer's rank and responsibility and
15 the size and location of the officer's police department, of forty (40) hours'
16 duration, at a school certified or recognized by the council which may include
17 a four (4) hour course which meets the requirements of paragraph ~~(k)~~(j) of
18 this subsection. This in-service training requirement shall be waived for the
19 period of time that a peace officer is serving on active duty in the United
20 States Armed Forces. This waiver shall be retroactive for peace officers from
21 the date of September 11, 2001;
- 22 (f) Complies with all provisions of law applicable to police officers or police
23 departments, including transmission of data to the centralized criminal history
24 record information system as required by KRS 17.150 and transmission of
25 reports as required by KRS 15.391;
- 26 (g) Complies with all rules and regulations, appropriate to the size and location of
27 the police department issued by the cabinet to facilitate the administration of

- 1 the fund and further the purposes of KRS 15.410 to 15.510;
- 2 (h) Possesses a written policy and procedures manual related to domestic violence
3 for law enforcement agencies that has been approved by the cabinet. The
4 policy shall comply with the provisions of KRS 403.715 to 403.785. The
5 policy shall include a purpose statement; definitions; supervisory
6 responsibilities; procedures for twenty-four (24) hour access to protective
7 orders; procedures for enforcement of court orders or relief when protective
8 orders are violated; procedures for timely and contemporaneous reporting of
9 adult abuse and domestic violence to the Cabinet for Health and Family
10 Services, Department for Community Based Services; victim rights,
11 assistance, and service responsibilities; and duties related to timely completion
12 of records;
- 13 (i) Possesses by January 1, 2017, a written policy and procedures manual related
14 to sexual assault examinations that meets the standards provided by, and has
15 been approved by, the cabinet, and which includes:
- 16 1. A requirement that evidence collected as a result of an examination
17 performed under KRS 216B.400 be taken into custody within five (5)
18 days of notice from the collecting facility that the evidence is available
19 for retrieval;
 - 20 2. A requirement that evidence received from a collecting facility relating
21 to an incident which occurred outside the jurisdiction of the police
22 department be transmitted to a police department with jurisdiction
23 within ten (10) days of its receipt by the police department;
 - 24 3. A requirement that all evidence retrieved from a collecting facility under
25 this paragraph be transmitted to the Department of Kentucky State
26 Police forensic laboratory within thirty (30) days of its receipt by the
27 police department;

- 1 4. A requirement that a suspect standard, if available, be transmitted to the
2 Department of Kentucky State Police forensic laboratory with the
3 evidence received from a collecting facility; and
- 4 5. A process for notifying the victim from whom the evidence was
5 collected of the progress of the testing, whether the testing resulted in a
6 match to other DNA samples, and if the evidence is to be destroyed. The
7 policy may include provisions for delaying notice until a suspect is
8 apprehended or the office of the Commonwealth's attorney consents to
9 the notification, but shall not automatically require the disclosure of the
10 identity of any person to whom the evidence matched;~~and~~

11 (j) Complies with and possesses by July 30, 2021, a written policy and
12 procedures manual related to mandatory drug and alcohol testing of police
13 officers after the discharge of a firearm or a deadly incident, which
14 includes:

15 1. A requirement that each police officer who has discharged his or her
16 firearm or been involved in a deadly incident submits to drug and
17 alcohol testing;

18 2. A requirement that drug and alcohol testing be performed as soon as
19 practicable after the discharge of a firearm or deadly incident, but no
20 later than two (2) hours after the discharge of a firearm or deadly
21 incident and before any interviews are conducted regarding the
22 incident;

23 3. Notwithstanding any statute to the contrary, a requirement that any
24 police officer who does not submit to mandatory drug and alcohol
25 testing after the discharge of a firearm or deadly incident within two
26 (2) hours:

27 a. Be suspended without pay for a period not less than ninety (90)

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days;

- b. Drafts a written statement detailing the reasons the police officer did not submit to drug and alcohol testing within two (2) hours that shall become part of the police officer's personnel file; and
- c. Provides the written statement to the Kentucky Law Enforcement Council;

- 4. A requirement that any police officer who tests positive for either drugs or alcohol after the discharge of a firearm or deadly incident be suspended without pay for a period not less than one hundred eighty (180) days; and
- 5. A requirement that the police department submit its final determination to the Kentucky Law Enforcement Council regarding its disposition of the investigation; and

~~(k)(j)~~ Requires all police officers to successfully complete by December 31, 2022, and every two (2) years thereafter, a training course certified by the council of not less than four (4) hours in emergency vehicle operation.

- (2) A unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund only if the police department of the unit of government remains in compliance with the requirements of this section.
- (3) Deputies employed by a sheriff's office shall be eligible to participate in the distribution of funds from the Law Enforcement Foundation Program fund regardless of participation by the sheriff.
- (4) Failure to meet a deadline established in a policy adopted pursuant to subsection (1)(i) of this section for the retrieval or submission of evidence shall not be a basis for a dismissal of a criminal action or a bar to the admissibility of the evidence in a criminal action.

1 ➔Section 9. KRS 15.340 is amended to read as follows:

2 Subject to approval by the secretary, the department may make its facilities and services
3 available upon the following terms:

- 4 (1) The department may determine to which law enforcement agencies, corrections
5 agencies, and court agencies and its officers it will offer training;
- 6 (2) In determining the law enforcement officers for which it will offer training and in
7 allocating available funds, the department shall give first priority to "police officers"
8 as defined by KRS 15.420~~[(2)]~~, public airport authority security officers, and
9 campus police;
- 10 (3) Fire investigators shall be offered training by the department;
- 11 (4) Except for the officers described in subsection (2) of this section, the department
12 may determine whether persons to whom it offers training or agencies employing
13 such persons must bear any or all costs of such training.

14 ➔Section 10. KRS 15.460 is amended to read as follows:

15 (1) (a) Except as provided in subsection (4)(a) of this section, an eligible unit of
16 government shall be entitled to receive an annual supplement of three
17 thousand dollars (\$3,000) for each qualified police officer it employs. The
18 supplement amount shall be increased to four thousand dollars (\$4,000)
19 beginning July 1, 2018.

20 (b) 1. In addition to the supplement, the unit of government shall receive an
21 amount equal to the required employer's contribution on the supplement
22 to the retirement plan and duty category to which the officer belongs. In
23 the case of County Employees Retirement System membership, the
24 retirement plan contribution on the supplement shall be paid whether the
25 officer enters the system under hazardous duty coverage or
26 nonhazardous coverage.

27 2. The unit of government shall pay the amount received for retirement

1 plan coverage to the appropriate retirement system to cover the required
2 employer contribution on the pay supplement.

3 3. If the foundation program funds are insufficient to pay employer
4 contributions to the system, then the total amount available for
5 retirement plan payments shall be prorated to each eligible government
6 so that each receives the same percentage of required retirement plan
7 costs attributable to the cash salary supplement.

8 (c) 1. In addition to the payments received under paragraphs (a) and (b) of this
9 subsection, but only if sufficient funds are available to make all
10 payments required under paragraph (b) of this subsection, each unit of
11 government shall receive an administrative expense reimbursement in an
12 amount equal to seven and sixty-five one-hundredths percent (7.65%) of
13 the total annual supplement received greater than three thousand one
14 hundred dollars (\$3,100) for each qualified police officer that is a local
15 officer as defined in KRS 15.420~~(3)~~~~(2)~~(a)1. that it employs, subject to
16 the cap established by subparagraph 3. of this paragraph.

17 2. The unit of government may use the moneys received under this
18 paragraph in any manner it deems necessary to partially cover the costs
19 of administering the payments received under paragraph (a) of this
20 subsection.

21 3. The total amount distributed under this paragraph shall not exceed the
22 total sum of five hundred twenty-five thousand dollars (\$525,000) for
23 each fiscal year. If there are insufficient funds to provide for full
24 reimbursement as provided in subparagraph 1. of this paragraph, then
25 the amount shall be distributed pro rata to each eligible unit of
26 government so that each receives the same percentage attributable to its
27 total receipt of the cash salary supplement.

- 1 (d) In addition to the payments received under paragraphs (a) and (b) of this
2 subsection, each unit of government shall receive the associated fringe
3 benefits costs for the total supplement of four thousand dollars (\$4,000) for
4 each qualified police officer that is a state officer as defined in KRS
5 15.420(3)(a)2.~~[15.420(2)(a)2.]~~ that it employs. Fringe benefits shall be limited
6 to retirement plan contributions and the federal insurance contributions act
7 tax.
- 8 (e) Notwithstanding paragraphs (a) to (d) of this subsection, a Kentucky
9 Department of Fish and Wildlife Resources conservation officer appointed
10 pursuant to KRS 150.090(2) and listed in KRS
11 15.420(3)(a)2.n.~~[15.420(2)(a)2.n.]~~ shall be a participant in the Kentucky Law
12 Enforcement Foundation Program fund, but shall not receive an annual
13 supplement from that fund. A conservation officer shall receive an annual
14 training stipend commensurate to the annual supplement paid to the police
15 officer as defined in KRS 15.420. The annual training stipend disbursed to a
16 conservation officer shall be paid from the game and fish fund pursuant to
17 KRS 150.150.
- 18 (f) Any peace officer sanctioned by the Tourism, Arts and Heritage Cabinet shall
19 be deemed a police officer solely for the purpose of inclusion in the Law
20 Enforcement Foundation Program fund.
- 21 (2) The supplement provided in subsection (1) of this section shall be paid by the unit
22 of government to each police officer whose qualifications resulted in receipt of a
23 supplemental payment. The payment shall be in addition to the police officer's
24 regular salary and, except as provided in subsection (4)(b) of this section, shall
25 continue to be paid to a police officer who is a member of:
- 26 (a) The Kentucky National Guard during any period of activation under Title 10
27 or 32 of the United States Code or KRS 38.030; or

- 1 (b) Any reserve component of the United States Armed Forces during any period
2 of activation with the United States Armed Forces.
- 3 (3) (a) A qualified sheriff who receives the maximum salary allowed by Section 246
4 of the Kentucky Constitution and KRS 64.527 shall not receive a supplement.
- 5 (b) A qualified sheriff who does not receive the maximum salary allowed by
6 Section 246 of the Kentucky Constitution and KRS 64.527, excluding the
7 expense allowance provided by KRS 70.170, shall upon annual settlement
8 with the fiscal court under KRS 134.192, receive that portion of the
9 supplement that will not cause his or her compensation to exceed the
10 maximum salary.
- 11 (c) A qualified sheriff who seeks to participate in the fund shall forward a copy of
12 the annual settlement prepared under KRS 134.192 to the fund. The sheriff
13 shall reimburse the fund if an audit of the annual settlement conducted
14 pursuant to KRS 134.192 reflects that the sheriff received all or a portion of
15 the supplement in violation of this section. A sheriff who fails to provide a
16 copy of the annual settlement to the fund or to reimburse the fund after
17 correction by audit, if required, shall not be qualified to participate in the fund
18 for a period of two (2) years.
- 19 (d) A qualified deputy sheriff shall receive the supplement from the sheriff if the
20 sheriff administers his or her own budget or from the county treasurer if the
21 sheriff pools his or her fees. The failure of a sheriff to comply with the
22 provisions of this section shall not affect the qualification of his or her
23 deputies to participate in the fund.
- 24 (4) (a) Eligible units of government shall receive the salary supplement, excluding
25 funds applicable to the employer's retirement plan contribution, provided in
26 subsection (1) of this section for distribution to a police officer who is eligible
27 under subsection (2) of this section.

1 (b) A qualified police officer receiving a salary supplement during any period of
2 military activation, as provided in subsection (2) of this section, shall not be
3 entitled to receive the employer's retirement plan contribution, and the salary
4 supplement shall not be subjected to an employee's contribution to a
5 retirement plan. The salary supplement shall otherwise be taxable for all
6 purposes.

7 (5) A unit of government receiving disbursements under this section shall follow all
8 laws applicable to it that may govern due process disciplinary procedures for its
9 officers, but this subsection shall not be interpreted to:

10 (a) Authorize the department, the cabinet, or the council to investigate, judge, or
11 exercise any control or jurisdiction regarding the compliance of a unit of
12 government with laws that may govern due process disciplinary procedures
13 for its officers, except as otherwise provided by laws;

14 (b) Create a private right of action for any police officer regarding an agency's
15 participation in this section;

16 (c) Authorize a termination of an agency's participation as a result of a judgment
17 that the unit of government failed to follow its procedures in any independent
18 cause of action brought by the police officer against the unit of government; or

19 (d) Prevent the adoption, amendment, or repeal of any laws that may govern the
20 due process disciplinary procedures of a unit of government's police officers.

21 ➔Section 11. KRS 15.520 is amended to read as follows:

22 (1) As used in this section:

23 (a) "Citizen" means any individual who is not:

24 1. A member or supervisor within the law enforcement agency that
25 employs an officer; or

26 2. An elected or appointed official within the unit of government under
27 which the law enforcement agency that employs the officer is organized;

- 1 (b) "Complaint" means any statement by a citizen, whether written or verbal, that
2 alleges any type of misconduct by an officer, including statements that are
3 submitted or received anonymously;
- 4 (c) "Disciplinary action" means termination, demotion, a decrease in pay or grade,
5 suspension without pay, and a written reprimand;
- 6 (d) "General employment policies" means the rules, regulations, policies, and
7 procedures commonly applicable to the general workforce or civilian
8 employees that are not unique to law enforcement activities or the exercise of
9 peace officer authority, regardless of whether those rules, regulations, policies,
10 and procedures exist or appear in a departmental manual or handbook that is
11 solely applicable to a law enforcement department or agency within the unit of
12 government employing the officer;
- 13 (e) "Interrogation" means a formal investigative interview and does not mean
14 conversations or meetings of supervisory personnel and subordinate officers
15 that are not intended to result in disciplinary action, such as conversations or
16 meetings held for the purpose of providing corrective instruction counseling
17 or coaching;
- 18 (f) "Law enforcement procedures" means only those policies, rules, and customs
19 that:
- 20 1. Are specific to the conduct of officers in the exercise of law enforcement
21 powers and functions, including, without limitation: use of force,
22 conduct in the course of pursuits, conduct during stops or detentions of
23 citizens, conduct in the course of interacting with, assisting, or
24 questioning of citizens, and investigative conduct;
 - 25 2. Are carried out in the course of peace officer functions;
 - 26 3. Are not general employment policies; and
 - 27 4. May exist in either written form or in the form of unwritten standards,

1 practices, or protocols generally accepted and applied in the law
2 enforcement profession;

3 (g) "Misconduct" means any act or omission by an officer that violates criminal
4 law, law enforcement procedures, or the general employment policies of the
5 employing agency; and

6 (h) "Officer" means a person employed as a full-time peace officer by a unit of
7 government that receives funds under KRS 15.410 to 15.510, except a state
8 officer listed in KRS 15.420(3)(a)2.b.~~[15.420(2)(a)2.b]~~. to f. and n., who has
9 completed any officially established initial probationary period of employment
10 lasting no longer than twelve (12) months not including, unless otherwise
11 specified by the employing agency, any time the officer was employed and
12 completing the basic training required by KRS 15.404.

13 (2) In order to establish a minimum system of professional conduct for officers of local
14 units of government of this Commonwealth, the following standards are stated as
15 the intention of the General Assembly to deal fairly and establish administrative due
16 process rights in certain disciplinary matters concerning those officers of an
17 employing unit of government that participates in the Kentucky Law Enforcement
18 Foundation Program fund administered pursuant to KRS 15.430 and, at the same
19 time, to provide a means for redress by the citizens of the Commonwealth for
20 wrongs allegedly done to them by officers covered by this section.

21 (3) Any complaint taken from a citizen alleging misconduct on the part of any officer
22 shall be taken as follows:

23 (a) If the complaint alleges criminal activity by an officer, the allegations may be
24 investigated without a signed, sworn complaint of the citizen;

25 (b) If the complaint alleges any other type of violation not constituting criminal
26 activity, including violations of law enforcement procedures or the general
27 employment policies of the employing agency, an affidavit, signed and sworn

1 to by the citizen, shall be obtained, except as provided by paragraph (c) of this
2 subsection; or

3 (c) If a complaint is required to be obtained and the citizen, upon request, refuses
4 to make allegations under oath in the form of an affidavit, signed and sworn
5 to, the employing agency may investigate the allegations, but shall bring
6 charges under subsection (6) of this section against the officer only if the
7 employing agency can independently substantiate the allegations absent the
8 sworn statement of the citizen.

9 (4) (a) When an officer is accused of an act or omission that would constitute a
10 violation of law enforcement procedures by any individual within the law
11 enforcement agency employing the officer, including supervisors and elected
12 or appointed officials of the officer's employing agency, the employing agency
13 shall conform the conduct of any investigation to the provisions of subsection
14 (5) of this section, shall formally charge the officer in accordance with
15 subsection (6) of this section, and shall conduct a hearing in accordance with
16 subsection (7) of this section before any disciplinary action shall be taken
17 against the officer.

18 (b) The provisions of this subsection shall not prevent the employing agency from
19 suspending the officer, with or without pay, during an investigation and
20 pending the final disposition of any formal charges, except that an officer
21 suspended without pay shall be entitled to full back pay and benefits for the
22 regular hours he or she would have worked if no formal charges are brought or
23 the hearing authority finds the officer not guilty of the charges.

24 (c) An employing agency shall not be required to follow the provisions of this
25 section in addressing conduct by the officer that would constitute a violation
26 of the general employment policies of the employing agency.

27 (5) (a) Any complaint filed by a citizen under subsection (3) of this section or any

1 allegation of conduct that would constitute a violation of law enforcement
2 procedures under subsection (4) of this section shall be investigated by the
3 employing agency or another designated law enforcement agency in
4 accordance with the provisions of this subsection if the employing agency
5 determines that an investigation of the complaint or the alleged conduct is
6 warranted.

7 (b) No threats, promises, or coercions shall be used at any time against any officer
8 while he or she is a suspect in a criminal case or has been accused of a
9 violation of law enforcement procedures. Suspension from duty with or
10 without pay, or reassignment to other than an officer's regular duties during
11 the period shall not be deemed coercion. Prior to or within twenty-four (24)
12 hours after suspending the officer pending investigation or disposition of a
13 complaint, the officer shall be advised in writing of the reasons for the
14 suspension.

15 (c) Unless otherwise agreed to in writing by the officer, no police officer shall be
16 subjected to interrogation for alleged conduct that violates law enforcement
17 procedures, until forty-eight (48) hours have expired from the time the request
18 for interrogation is made to the accused officer, in writing. The notice of
19 interrogation shall include a statement regarding any reason for the
20 interrogation and shall be served on the officer by certified mail, return receipt
21 requested, or by personal delivery.

22 (d) The interrogation shall be conducted while the officer is on duty. The officer
23 may be required to submit a written report of the alleged incident if the
24 request is made by the employing agency no later than the end of the subject
25 officer's next tour of duty after the tour of duty during which the employing
26 agency initially was made aware of the complaint.

27 (e) If an officer is under arrest, or likely to be arrested, or a suspect in any

1 criminal investigation, he or she shall be afforded the same constitutional due
2 process rights that are accorded to any civilian, including, but not limited to,
3 the right to remain silent and the right to counsel, and shall be notified of
4 those rights before any questioning commences.

5 (6) (a) If it is determined through investigation or other means that the facts alleged
6 in a citizen complaint or in an accusation of a violation of law enforcement
7 procedures warrant charging the officer, the charge shall be made in writing
8 with sufficient specificity so as to fully inform the officer of the nature and
9 circumstances of the alleged violation in order that he or she may be able to
10 properly defend himself or herself.

11 (b) The charge shall be signed by a representative of the employing agency, shall
12 set out the disciplinary action recommended or imposed, and shall be served
13 on the officer in writing by certified mail, return receipt requested, or by
14 personal delivery.

15 (c) When an officer has been charged with a violation of law enforcement
16 procedures, no public statements shall be made concerning the alleged
17 violation by any person or persons of the employing agency or the officer so
18 charged, until final disposition of the charges.

19 (d) No officer as a condition of continued employment by the employing agency
20 shall be compelled to speak or testify or be questioned by any person or body
21 of a nongovernmental nature.

22 (7) Unless waived by the charged officer in writing, a hearing shall be conducted by the
23 officer's appointing authority to determine whether there is substantial evidence to
24 prove the charges and to determine what, if any, disciplinary action shall be taken if
25 substantial evidence does exist. In conducting a hearing, the following
26 administrative due process rights shall be recognized and these shall be the
27 minimum rights afforded any officer charged, except as otherwise agreed to in

- 1 writing by the officer and the employing agency:
- 2 (a) The accused officer shall be given at least twelve (12) days' written notice of
3 any hearing. The notice of hearing shall be served on the officer by certified
4 mail, return receipt requested, or by personal delivery;
- 5 (b) Copies of any sworn statements or affidavits to be considered by the hearing
6 authority and any exculpatory statements or affidavits shall be furnished to the
7 officer no less than twelve days (12) prior to the time of any hearing;
- 8 (c) At any hearing based upon the sworn complaint of a citizen, the citizen shall
9 be notified to appear at the time and place of the hearing by certified mail,
10 return receipt requested, or by personal delivery;
- 11 (d) If the return receipt has been returned unsigned, or the individual does not
12 appear, except due to circumstances beyond his or her control he or she cannot
13 appear at the time and place of the hearing, any charge resulting from a
14 complaint made by that citizen shall not be considered by the hearing
15 authority and shall be dismissed with prejudice;
- 16 (e) The accused officer shall have the right and opportunity to obtain and have
17 counsel present, and to be represented by counsel;
- 18 (f) The appointing authority, legislative body, or other body as designated by the
19 Kentucky Revised Statutes shall subpoena and require the attendance of
20 witnesses and the production by them of books, papers, records, and other
21 documentary evidence at the request of the accused officer or the charging
22 party. If any person fails or refuses to appear under the subpoena, or to testify,
23 or to attend, or produce the books, papers, records, or other documentary
24 evidence lawfully required, the appointing authority, legislative body, or other
25 body as designated by the Kentucky Revised Statutes may report to the Circuit
26 Court or any judge thereof the failure or refusal, and apply for a rule. The
27 Circuit Court, or any judge thereof, may on the application compel obedience

- 1 by proceedings for contempt as in the case of disobedience of the
2 requirements of a subpoena issued from the court;
- 3 (g) The accused officer shall be allowed to present witnesses and any
4 documentary or other relevant evidence the officer wishes to provide to the
5 hearing authority, and may cross-examine all witnesses called by the charging
6 party;
- 7 (h) If any officer who has been suspended with or without pay is not given a
8 hearing as provided by this section within seventy-five (75) days of any charge
9 being filed pursuant to this section, the charge shall be dismissed with
10 prejudice and shall not be considered by any hearing authority and the officer
11 shall be reinstated with full back pay and benefits;
- 12 (i) Any officer who has been suspended without pay who is found not guilty of
13 the charges by the hearing authority shall be reinstated with the full back pay
14 and benefits for the regular hours he or she would have worked;
- 15 (j) The failure to provide any of the rights or to follow the provisions of this
16 section may be raised by the officer with the hearing authority. The hearing
17 authority shall not exclude proffered evidence based on failure to follow the
18 requirements of this section but shall consider whether, because of the failure,
19 the proffered evidence lacks weight or credibility and whether the officer has
20 been materially prejudiced; and
- 21 (k) To the extent the provisions of KRS 61.805 to 61.850 are applicable, the
22 hearing authority may conduct the hearing required by this subsection in a
23 closed session, unless the officer requests of the hearing authority in writing at
24 least three (3) days prior to the hearing that the hearing be open to the public.
- 25 (8) (a) Any officer who is found guilty by any hearing authority of any charge, may
26 bring an action in the Circuit Court in the county in which the employing
27 agency is located within thirty (30) days of the date written findings are issued

1 to appeal the action of the hearing authority. The appeal shall be initiated by
2 the filing of a complaint in the same manner as any civil action under the
3 Rules of Civil Procedure and shall include a copy of the hearing authority's
4 final order. The Circuit Court review of the case shall be based solely upon the
5 administrative record created before the hearing authority and any new
6 evidence offered by the officer regarding alleged arbitrariness on the part of
7 the hearing authority.

8 (b) The judgment of the Circuit Court shall be subject to appeal to the Court of
9 Appeals. The procedure as to appeal to the Court of Appeals shall be the same
10 as in any civil action.

11 (9) The provisions of KRS 90.310 to 90.410, 95.450, and 95.765 shall not apply in any
12 proposed disciplinary action arising from a citizen complaint made under subsection
13 (3) of this section or arising from any allegation of conduct that would constitute a
14 violation of law enforcement procedures under subsection (4) of this section. This
15 section shall not be interpreted or construed to alter or impair any of the substantive
16 rights provided to a city police officer under KRS 90.310 to 90.410, 95.450, and
17 95.765 for any proposed disciplinary action or other matters not arising under
18 subsections (3) and (4) of this section, including proposed actions involving alleged
19 violations of general employment policies. To the extent that the provisions of this
20 section are inapplicable to any proposed disciplinary action against a city police
21 officer, the provisions of KRS 90.310 to 90.410, 95.450, and 95.765 shall remain in
22 full force and effect.

23 (10) As the provisions of this section relate to a minimum system of professional
24 conduct, nothing in this section shall be interpreted or construed to:

25 (a) Limit or to in any way affect any rights previously afforded to officers of the
26 Commonwealth by statute, collective bargaining or working agreement, or
27 legally adopted ordinance;

- 1 (b) Preclude an employing agency from investigating and charging an officer both
2 criminally and administratively;
- 3 (c) Prevent the suspension with or without pay or reassignment of an officer
4 during an investigation and pending final disposition charges;
- 5 (d) Permit an employing agency to categorize and treat any complaint that
6 originates from a citizen as an internal matter in order to avoid application of
7 all of the provisions of this section to the final disposition of a citizen's
8 complaint;
- 9 (e) Apply any disciplinary action required by this section to actions taken by an
10 employing agency that is not related to misconduct by a law enforcement
11 officer, such as personnel decisions made by the employing agency due to a
12 lack of resources or personnel decisions related to a chief's management of a
13 police department; or
- 14 (f) Prevent an employing agency from electing to apply the provisions of this
15 section, or parts thereof, in circumstances that would not be covered under this
16 section.

17 (11) This section shall not apply to officers employed by a consolidated local
18 government that receives funds under KRS 15.410 to 15.510, who shall instead be
19 governed by the provisions of KRS 67C.326.

20 ➔Section 12. KRS 15.512 is amended to read as follows:

21 Each law enforcement agency or other employing agency whose officers are required to
22 meet the training requirements of KRS 15.440(1)(k)~~[15.440(1)(j)]~~ shall retain a record of
23 each of its officers having met the biennial training. These records shall be made
24 available upon request to the Kentucky Law Enforcement Council and to the Justice and
25 Public Safety Cabinet.

26 ➔Section 13. KRS 61.169 is amended to read as follows:

27 (1) Subject to the provisions of KRS 61.870 to 61.884 and the following requirements,

1 a copy of a recording that may be viewed under KRS 61.168(5)(~~e~~)(~~d~~) shall, upon
2 request, be made for and provided to an attorney that:

- 3 (a) Is licensed to practice law in the Commonwealth of Kentucky;
- 4 (b) Represents the person or entity that is directly involved in the incident
5 contained in the body-worn camera recording;
- 6 (c) Has not been disqualified under subsection (3) of this section; and
- 7 (d) Executes an affidavit in support of limited release regarding the attorney's
8 responsibility for the care and custody of the copy of the recording that
9 specifically stipulates that he or she:
- 10 1. Will only use the recording for the sole purposes of evaluating or
11 preparing for an existing or potential court case or administrative
12 proceeding or in consulting with insurance companies on matters related
13 to insurance coverage of incidents that are depicted in the recording;
 - 14 2. Will not distribute duplicate copies of the recording except for the sole
15 purpose of having an expert or other professional consultant provide
16 analysis to the attorney for the purposes of evaluating or preparing for an
17 existing or potential court case or administrative proceeding or with an
18 insurance company for the purposes of accessing claims coverage,
19 settlement, or other matters involving an insurance contract;
 - 20 3. Will execute a contract with any expert, professional consultant, or
21 insurance company that is provided a duplicate copy of the recording
22 pursuant to this paragraph that requires the expert or professional
23 consultant to be bound by the same limitations and requirements as the
24 attorney for the care and custody of the recording as required by this
25 paragraph;
 - 26 4. Will not allow individuals or others that are not under the attorney's
27 control or supervision the ability to view the contents of the recording in

1 any form except for the sole purpose of preparation for an existing or
2 potential court or administrative proceeding, communications regarding
3 matters related to insurance, or for the purposes of displaying the
4 recording as evidence in any court or administrative proceeding;

5 5. Will destroy any copy of the recording when the recording is no longer
6 used for the purposes of this section or the court or administrative
7 proceeding has been finally adjudicated to its conclusion; and

8 6. Acknowledges that as an officer of the court, he or she may be subject to
9 professional discipline or other legal liability for a breach of an affidavit
10 executed under this section.

11 (2) If an attorney violates an affidavit executed under subsection (1) of this section, the
12 public agency shall refer the matter to the Kentucky Bar Association for it to
13 consider any appropriate action under the Kentucky Rules of Professional Conduct.
14 The public agency may take any additional legal action against an attorney for such
15 a violation.

16 (3) Any attorney who has been disciplined under the Rules of Professional Conduct or
17 has otherwise been found by a court of law to have violated an affidavit executed
18 under subsection (1) of this section shall be disqualified from making any
19 subsequent requests for copies of recordings under the provisions of this section.

20 (4) A public agency that produces a copy of a recording pursuant to this section may
21 treat the request for the recording as a commercial request and charge a reasonable
22 fee for the costs of production as authorized under KRS 61.874(4)(c).

23 ➔Section 14. Sections 1 to 8 of this Act shall be known and may be cited as
24 "Breonna's Law".