

1 AN ACT relating to public safety.

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

3 ➔Section 1. KRS 500.080 is amended to read as follows:

4 As used in the Kentucky Penal Code, unless the context otherwise requires:

5 (1) "Actor" means any natural person and, where relevant, a corporation or an  
6 unincorporated association;

7 (2) "Crime" means a misdemeanor or a felony;

8 (3) "Dangerous instrument" means any instrument, including parts of the human body  
9 when a serious physical injury is a direct result of the use of that part of the human  
10 body, article, or substance which, under the circumstances in which it is used,  
11 attempted to be used, or threatened to be used, is readily capable of causing death or  
12 serious physical injury;

13 (4) "Deadly weapon" means any of the following:

14 (a) A weapon of mass destruction;

15 (b) Any weapon from which a shot, readily capable of producing death or other  
16 serious physical injury, may be discharged;

17 (c) Any knife other than an ordinary pocket knife or hunting knife;

18 (d) Billy, nightstick, or club;

19 (e) Blackjack or slapjack;

20 (f) Nunchaku karate sticks;

21 (g) Shuriken or death star; or

22 (h) Artificial knuckles made from metal, plastic, or other similar hard material;

23 **(5) "Emergency services personnel" means any person who is a paid or volunteer**  
24 **emergency medical services personnel certified or licensed pursuant to KRS**  
25 **Chapter 311A or a paid or volunteer member of an organized fire department;**

26 ~~(6)~~~~(5)~~ "Felony" means an offense for which a sentence to a term of imprisonment of  
27 at least one (1) year in the custody of the Department of Corrections may be

1 imposed;

2 **(7) "Firework" means any composition or device for the purpose of producing a**  
3 **visible or an audible effect by combustion, deflagration, or detonation, including**  
4 **but not limited to bottle rockets, Roman candles, and firecrackers;**

5 **(8)**~~[(6)] "Government" means the United States, any state, county, municipality, or  
6 other political unit, or any department, agency, or subdivision of any of the  
7 foregoing, or any corporation or other association carrying out the functions of  
8 government;~~

9 **(9)**~~[(7)] "He" means any natural person and, where relevant, a corporation or an  
10 unincorporated association;~~

11 **(10)**~~[(8)] "Law" includes statutes, ordinances, and properly adopted regulatory  
12 provisions. Unless the context otherwise clearly requires, "law" also includes the  
13 common law;~~

14 **(11)**~~[(9)] "Minor" means any person who has not reached the age of majority as defined  
15 in KRS 2.015;~~

16 **(12)**~~[(10)] "Misdemeanor" means an offense, other than a traffic infraction, for which a  
17 sentence to a term of imprisonment of not more than twelve (12) months can be  
18 imposed;~~

19 **(13)**~~[(11)] "Offense" means conduct for which a sentence to a term of imprisonment or to  
20 a fine is provided by any law of this state or by any law, local law, or ordinance of a  
21 political subdivision of this state or by any law, order, rule, or regulation of any  
22 governmental instrumentality authorized by law to adopt the same;~~

23 **(14)**~~[(12)] "Person" means a human being, and where appropriate, a public or private  
24 corporation, an unincorporated association, a partnership, a government, or a  
25 governmental authority;~~

26 **(15)**~~[(13)] "Physical injury" means substantial physical pain or any impairment of  
27 physical condition;~~

1 ~~(16)~~~~(14)~~ "Possession" means to have actual physical possession or otherwise to  
2 exercise actual dominion or control over a tangible object;

3 **(17) "Riot" means a public disturbance involving an assemblage of five (5) or more**  
4 **persons which by tumultuous and violent conduct creates grave danger of**  
5 **damage or injury to property or persons or substantially obstructs law**  
6 **enforcement or other government function;**

7 ~~(18)~~~~(15)~~ "Serious physical injury" means physical injury which creates a substantial  
8 risk of death, or which causes serious and prolonged disfigurement, prolonged  
9 impairment of health, or prolonged loss or impairment of the function of any bodily  
10 organ. For a child twelve (12) years of age or less at the time of the injury, a serious  
11 physical injury includes but is not limited to the following:

- 12 (a) Bruising near the eyes, or on the head, neck, or lower back overlying the  
13 kidneys;
- 14 (b) Any bruising severe enough to cause underlying muscle damage as  
15 determined by elevated creatine kinase levels in the blood;
- 16 (c) Any bruising or soft tissue injury to the genitals that affects the ability to  
17 urinate or defecate;
- 18 (d) Any testicular injury sufficient to put fertility at risk;
- 19 (e) Any burn near the eyes or involving the mouth, airway, or esophagus;
- 20 (f) Any burn deep enough to leave scarring or dysfunction of the body;
- 21 (g) Any burn requiring hospitalization, debridement in the operating room, IV  
22 fluids, intubation, or admission to a hospital's intensive care unit;
- 23 (h) Rib fracture;
- 24 (i) Scapula or sternum fractures;
- 25 (j) Any broken bone that requires surgery;
- 26 (k) Head injuries that result in intracranial bleeding, skull fracture, or brain injury;
- 27 (l) A concussion that results in the child becoming limp, unresponsive, or results

1 in seizure activity;

2 (m) Abdominal injuries that indicate internal organ damage regardless of whether  
3 surgery is required;

4 (n) Any injury requiring surgery;

5 (o) Any injury that requires a blood transfusion; and

6 (p) Any injury requiring admission to a hospital's critical care unit;

7 ~~(19)~~~~(16)~~ "Unlawful" means contrary to law or, where the context so requires, not  
8 permitted by law. It does not mean wrongful or immoral;

9 ~~(20)~~~~(17)~~ "Violation" means an offense, other than a traffic infraction, for which a  
10 sentence to a fine only can be imposed; and

11 ~~(21)~~~~(18)~~ "Weapon of mass destruction" means:

12 (a) Any destructive device as defined in KRS 237.030, but not fireworks as  
13 defined in KRS 227.700;

14 (b) Any weapon that is designed or intended to cause death or serious physical  
15 injury through the release, dissemination, or impact of toxic or poisonous  
16 chemicals or their precursors;

17 (c) Any weapon involving a disease organism; or

18 (d) Any weapon that is designed to release radiation or radioactivity at a level  
19 dangerous to human life.

20 ➔Section 2. KRS 503.055 is amended to read as follows:

21 (1) A person is presumed to have held a reasonable fear of imminent peril of death or  
22 great bodily harm to himself or herself or another when using defensive force that is  
23 intended or likely to cause death or great bodily harm to another if:

24 (a) 1. The person against whom the defensive force was used was in the  
25 process of unlawfully and forcibly entering or had unlawfully and  
26 forcibly entered a dwelling, residence, or occupied vehicle, or if that  
27 person had removed or was attempting to remove another against that

1 person's will from the dwelling, residence, or occupied vehicle; and

2 ~~2.[(b)]~~ The person who uses defensive force knew or had reason to  
 3 believe that an unlawful and forcible entry or unlawful and forcible act  
 4 was occurring or had occurred; or

5 **(b) 1. The person who uses defensive force does so during the course of a**  
 6 **riot;**

7 **2. The person who uses defensive force would be justified in a use of**  
 8 **defensive force under paragraph (a) of this subsection;**

9 **3. The person who uses defensive force does so in an attempt to escape**  
 10 **the immediate vicinity of the unlawful and forcible entry; and**

11 **4. The person against whom defensive force was used was intentionally**  
 12 **blocking or preventing the person from escape.**

13 (2) The presumption set forth in subsection (1) of this section does not apply if:

14 (a) The person against whom the defensive force is used has the right to be in or  
 15 is a lawful resident of the dwelling, residence, or vehicle, such as an owner,  
 16 lessee, or titleholder, and there is not an injunction for protection from  
 17 domestic violence or a written pretrial supervision order of no contact against  
 18 that person;

19 (b) The person sought to be removed is a child or grandchild, or is otherwise in  
 20 the lawful custody or under the lawful guardianship of the person against  
 21 whom the defensive force is used;

22 (c) The person who uses defensive force is engaged in an unlawful activity or is  
 23 using the dwelling, residence, or occupied vehicle to further an unlawful  
 24 activity; or

25 (d) The person against whom the defensive force is used is a peace officer, as  
 26 defined in KRS 446.010, who enters or attempts to enter a dwelling,  
 27 residence, or vehicle in the performance of his or her official duties, and the

1 officer identified himself or herself in accordance with any applicable law or  
 2 the person using force knew or reasonably should have known that the person  
 3 entering or attempting to enter was a peace officer.

4 (3) A person who is not engaged in an unlawful activity and who is attacked in any  
 5 other place where he or she has a right to be has no duty to retreat and has the right  
 6 to stand his or her ground and meet force with force, including deadly force, if he or  
 7 she reasonably believes it is necessary to do so to prevent death or great bodily harm  
 8 to himself or herself or another or to prevent the commission of a felony involving  
 9 the use of force.

10 (4) A person who unlawfully and by force enters or attempts to enter a person's  
 11 dwelling, residence, or occupied vehicle is presumed to be doing so with the intent  
 12 to commit an unlawful act involving force or violence.

13 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO  
 14 READ AS FOLLOWS:

15 **(1) A defendant shall be subject to an enhanced punishment under subsection (3) of**  
 16 **this section if he or she is convicted of a crime and it is proven beyond a**  
 17 **reasonable doubt that the defendant:**

18 **(a) Would not have committed the crime but for the riot, and**

19 **(b) Committed the crime:**

20 **1. During the course of a riot;**

21 **2. In reasonable proximity to the riot; and**

22 **3. With knowledge that a riot was occurring.**

23 **(2) Unless a jury trial has been waived, when a defendant is convicted of a crime and**  
 24 **the defendant is charged with committing the underlying offense as described in**  
 25 **subsection (1) of this section:**

26 **(a) The court shall conduct a hearing, separate from the proceeding that**  
 27 **resulted in the defendant's conviction for the underlying offense, to**

1 determine whether the person committed the underlying offense as  
2 described in subsection (1) of this section;

3 (b) The hearing shall be conducted by the same court and jury that convicted  
4 the defendant of the underlying offense, unless the court for good cause  
5 discharges that jury and impanels a new jury for that purpose; and

6 (c) The jury shall determine whether, beyond a reasonable doubt, the person  
7 committed the underlying offense as described in subsection (1) of this  
8 section.

9 (3) When a defendant has been found to have committed an offense during the  
10 course of a riot or used the riot as an opportunity to engage in unrelated criminal  
11 activity in reasonable proximity to the riot, his or her sentence for the underlying  
12 offense shall be enhanced as follows:

13 (a) If the underlying offense is a Class B misdemeanor:

14 1. The person shall not be released on probation, shock probation,  
15 parole, conditional discharge, or any other form of early release prior  
16 to the expiration of forty-five (45) days; and

17 2. A fine of two hundred fifty dollars (\$250) shall be assessed,  
18 notwithstanding KRS 534.040;

19 (b) If the underlying offense is a Class A misdemeanor:

20 1. The person shall not be released on probation, shock probation,  
21 parole, conditional discharge, or any other form of early release prior  
22 to the expiration of three (3) months; and

23 2. A fine of five hundred dollars (\$500) shall be assessed,  
24 notwithstanding KRS 534.040;

25 (c) If the underlying offense is a Class D felony:

26 1. The person shall not be released on probation, shock probation,  
27 parole, conditional discharge, or any other form of early release prior

1                   to the person's initial parole eligibility date consistent with  
2                   administrative regulations promulgated pursuant to KRS 439.340; and

3                   2. A fine of five thousand dollars (\$5,000) shall be assessed,  
4                   notwithstanding KRS 534.040;

5                   (d) If the underlying offense is a Class C felony:

6                   1. The person shall not be released on probation, shock probation,  
7                   parole, conditional discharge, or any other form of early release prior  
8                   to the person's initial parole eligibility date consistent with  
9                   administrative regulations promulgated pursuant to KRS 439.340; and

10                  2. A fine of seven thousand five hundred dollars (\$7,500) shall be  
11                  assessed, notwithstanding KRS 534.040;

12                  (e) If the underlying offense is a Class B felony:

13                  1. The person shall not be released on probation, shock probation,  
14                  parole, conditional discharge, or any other form of early release prior  
15                  to the person's initial parole eligibility date consistent with  
16                  administrative regulations promulgated pursuant to KRS 439.340; and

17                  2. A fine of ten thousand dollars (\$10,000) shall be assessed,  
18                  notwithstanding KRS 534.040;

19                  (f) If the underlying offense is a Class A felony:

20                  1. The person shall not be released on probation, shock probation,  
21                  parole, conditional discharge, or any other form of early release prior  
22                  to the person's initial parole eligibility date consistent with  
23                  administrative regulations promulgated pursuant to KRS 439.340; and

24                  2. A fine of ten thousand dollars (\$10,000) shall be assessed,  
25                  notwithstanding KRS 534.040.

26                  ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO  
27 READ AS FOLLOWS:



1 *Notwithstanding KRS 431.066 and 431.520, a person who has been charged with an*  
2 *offense during the course of a riot shall not be released until forty-eight (48) hours*  
3 *have passed since the time of arrest and the person appears before a judge.*

4 →Section 5. KRS 508.025 is amended to read as follows:

5 (1) A person is guilty of assault in the third degree when the actor:

6 (a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally  
7 causes or attempts to cause physical injury to:

8 1. A state, county, city, or federal peace officer;

9 2. An employee of a detention facility, or state residential treatment facility  
10 or state staff secure facility for residential treatment which provides for  
11 the care, treatment, or detention of a juvenile charged with or  
12 adjudicated delinquent because of a public offense or as a youthful  
13 offender;

14 3. An employee of the Department for Community Based Services  
15 employed as a social worker to provide direct client services, if the event  
16 occurs while the worker is performing job-related duties;

17 4. Paid or volunteer emergency medical services personnel certified or  
18 licensed pursuant to KRS Chapter 311A, if the event occurs while  
19 personnel are performing job-related duties;

20 5. A paid or volunteer member of an organized fire department, if the event  
21 occurs while the member is performing job-related duties;

22 6. Paid or volunteer rescue squad personnel affiliated with the Division of  
23 Emergency Management of the Department of Military Affairs or a local  
24 disaster and emergency services organization pursuant to KRS Chapter  
25 39F, if the event occurs while personnel are performing job-related  
26 duties;

27 7. A probation and parole officer;

- 1           8. A transportation officer appointed by a county fiscal court or legislative  
2           body of a consolidated local government, urban-county government, or  
3           charter government to transport inmates when the county jail or county  
4           correctional facility is closed while the transportation officer is  
5           performing job-related duties;
- 6           9. A public or private elementary or secondary school or school district  
7           classified or certified employee, school bus driver, or other school  
8           employee acting in the course and scope of the employee's employment;  
9           or
- 10          10. A public or private elementary or secondary school or school district  
11          volunteer acting in the course and scope of that person's volunteer  
12          service for the school or school district;
- 13          (b) Being a person confined in a detention facility, or a juvenile in a state  
14          residential treatment facility or state staff secure facility for residential  
15          treatment which provides for the care, treatment, or detention of a juvenile  
16          charged with or adjudicated delinquent because of a public offense or as a  
17          youthful offender, inflicts physical injury upon or throws or causes feces, or  
18          urine, or other bodily fluid to be thrown upon an employee of the facility; ~~or~~
- 19          (c) Intentionally causes a person, whom the actor knows or reasonably should  
20          know to be a peace officer discharging official duties, to come into contact  
21          with saliva, vomit, mucus, blood, seminal fluid, urine, or feces without the  
22          consent of the peace officer; or
- 23          *(d) Intentionally causes physical injury to a law enforcement officer or*  
24          *emergency services personnel by means of chemical agents or fireworks.*
- 25          (2) (a) For violations of subsection (1)(a), ~~and~~ (b), and (d) of this section, assault in  
26          the third degree is a Class D felony.
- 27          (b) 1. For violations of subsection (1)(c) of this section, assault in the third

1 degree is a Class B misdemeanor, unless **committed during the course**  
 2 **of a riot, in which case it is a Class A misdemeanor.**

3 **2. If** the assault is with saliva, vomit, mucus, blood, seminal fluid, urine, or  
 4 feces from an adult who knows that he or she has a serious  
 5 communicable disease and competent medical or epidemiological  
 6 evidence demonstrates that the specific type of contact caused by the  
 7 actor is likely to cause transmission of the disease or condition~~, in~~  
 8 ~~which case~~ it is a Class A misdemeanor, **unless committed during the**  
 9 **course of a riot, in which case it is a Class D felony.**

10 (c) As used in **subparagraph**~~[paragraph]~~ **2.**~~[(b)]~~ of **paragraph (b)**~~[this~~  
 11 ~~subsection]~~, "serious communicable disease" means a non-airborne disease  
 12 that is transmitted from person to person and determined to have significant,  
 13 long-term consequences on the physical health or life activities of the person  
 14 infected.

15 ➔Section 6. KRS 508.030 is amended to read as follows:

16 (1) A person is guilty of assault in the fourth degree when:

17 (a) He **or she** intentionally or wantonly causes physical injury to another person;~~[~~  
 18 ~~or]~~

19 (b) With recklessness he **or she** causes physical injury to another person by means  
 20 of a deadly weapon or a dangerous instrument; **or**

21 **(c) He or she knowingly shines or aims a light, laser, or activated horn or other**  
 22 **noise-making device towards the head of a law enforcement officer or**  
 23 **emergency services personnel with the intent to affect their ability to safely**  
 24 **and adequately perform their duties.**

25 (2) Assault in the fourth degree is a Class A misdemeanor.

26 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 511 IS CREATED TO  
 27 READ AS FOLLOWS:

1 (1) As used in this section, "camping" means, at any time between 10 p.m. and 7  
2 a.m.:

3 (a) Erecting, placing, maintaining, leaving, allowing to remain, or using a  
4 piece of furniture, tent, raised tarp, or other temporary shelter, structure, or  
5 furniture;

6 (b) Sleeping or making preparation to sleep, including laying down a sleeping  
7 bag, blanket, or other material used for bedding;

8 (c) Placing or storing personal belongings for future use, including storing  
9 food for consumption;

10 (d) Carrying on cooking activities, whether by fire or use of artificial means,  
11 such as a propane stove or other heat-producing portable cooking  
12 equipment;

13 (e) Making a fire or preparing to make a fire; or

14 (f) Doing any digging or earth breaking.

15 (2) (a) A person is guilty of unlawful camping on property owned by the  
16 Commonwealth when:

17 1. He or she knowingly camps on an area which is not specifically  
18 designated for use as a camping area by the department or agency  
19 responsible for the land; and

20 2. He or she camps during the course of a riot or within twenty four (24)  
21 hours following a riot.

22 (b) A person shall not be guilty of a violation of this section unless the person  
23 received a warning not to engage in camping from an official responsible  
24 for the protection of the property in question and continued to engage in  
25 camping or returned within twenty-four (24) hours of the warning to  
26 continue to engage in camping.

27 (3) Any items used to commit a violation of this section, including items abandoned

1 at the location of the offense, are subject to confiscation, seizure, and claiming in  
2 accordance with subsection (4) of this section.

3 (4) (a) Any property subject to confiscation or seizure under subsection (3) of this  
4 section, or left unattended after arrest or issuance of a citation for camping  
5 in violation of subsection (2) of this section, and taken into custody shall be  
6 held in a secure location for a period of ninety (90) days.

7 (b) Notice containing the contact information of the state agency or agent  
8 holding the property shall be posted at the nearest reasonable location to the  
9 place from which the property was removed.

10 (c) If the property is not claimed within ninety (90) days of being taken into  
11 custody, the property is deemed abandoned and the agency or agent may  
12 dispose of the property, unless the property is needed as evidence in a  
13 criminal proceeding.

14 (d) If a person claiming any such property within ninety (90) days of the  
15 property being taken into custody produces identification and signs a  
16 release form providing such person's name and contact information and  
17 swearing under oath that the property belongs to the person, the state  
18 agency or agent shall return the property to the person, unless the property  
19 is needed for evidence in a criminal proceeding, in which case it shall be  
20 returned following the conclusion of that proceeding.

21 (e) The state agency or agent may charge such persons a reasonable storage fee  
22 for storing the property. The state and state employees, agents, and  
23 contractors shall be immune from liability for confiscation of property in  
24 compliance with this subsection.

25 (5) Unlawful camping on property owned by the Commonwealth is a Class A  
26 misdemeanor. Upon a second or subsequent offense, unlawful camping is a Class  
27 D felony.

1 **(6) No person shall be convicted of unlawful camping on property owned by the**  
2 **Commonwealth when he or she is a homeless individual as defined in KRS**  
3 **198A.700.**

4 ➔Section 8. KRS 520.090 is amended to read as follows:

5 (1) A person is guilty of resisting arrest when he intentionally prevents or attempts to  
6 prevent a peace officer, recognized to be acting under color of his official authority,  
7 from effecting an arrest of the actor or another by:

8 (a) Using or threatening to use physical force or violence against the peace officer  
9 or another; or

10 (b) Using any other means creating a substantial risk of causing physical injury to  
11 the peace officer or another.

12 (2) Resisting arrest is a Class A misdemeanor **unless committed during the course of a**  
13 **riot, in which case it is a Class D felony.**

14 ➔Section 9. KRS 525.015 is amended to read as follows:

15 (1) As used in this section, "emergency responder" means state or local law  
16 enforcement personnel, fire department personnel, corrections officers, and  
17 emergency medical personnel and those contracted for official use by emergency  
18 responders.

19 (2) No person shall intentionally obstruct or disrupt an emergency responder from  
20 performing his or her official duties.

21 (3) Obstructing an emergency responder is a violation for a first offense, and a Class B  
22 misdemeanor for a second or subsequent offense **unless committed during the**  
23 **course of a riot, in which case it is a Class D felony.**

24 ➔Section 10. KRS 525.020 is amended to read as follows:

25 (1) A person is guilty of riot in the first degree when:

26 (a) **1.** He **or she** knowingly participates in a riot

27 **2.** **He or she knowingly provides supplies to a riot that can be used as**

1 *weapons or dangerous instruments*; and

2 (b) In the course of and as a result of such riot a person other than one (1) of the  
3 participants suffers physical injury or substantial property damage occurs.

4 (2) Riot in the first degree is a Class D felony.

5 ➔Section 11. KRS 525.030 is amended to read as follows:

6 (1) A person is guilty of riot in the second degree when:

7 (a) He *or she* knowingly participates in a riot; *or*

8 (b) *He or she knowingly provides supplies to a riot that can be used as weapons*  
9 *or dangerous instruments.*

10 (2) Riot in the second degree is a Class A misdemeanor.

11 ➔Section 12. KRS 525.060 is amended to read as follows:

12 (1) A person is guilty of disorderly conduct in the second degree when in a public place  
13 and with intent to cause public inconvenience, annoyance, or alarm, or wantonly  
14 creating a risk thereof, he:

15 (a) Engages in fighting or in violent, tumultuous, or threatening behavior;

16 (b) Makes unreasonable noise;

17 (c) Refuses to obey an official order to disperse issued to maintain public safety  
18 in dangerous proximity to a fire, hazard, or other emergency; ~~or~~

19 (d) Creates a hazardous or physically offensive condition by any act that serves no  
20 legitimate purpose; *or*

21 (e) *Accosts, insults, taunts, or challenges a law enforcement officer with*  
22 *offensive or derisive words, or by gestures or other physical contact, that*  
23 *would have a direct tendency to provoke a violent response from the*  
24 *perspective of a reasonable and prudent person.*

25 (2) Disorderly conduct in the second degree is a Class B misdemeanor.

26 ➔Section 13. KRS 525.140 is amended to read as follows:

27 (1) A person is guilty of obstructing a highway or other public passage;

1        (a) When having no legal privilege to do so he, alone or with other persons,  
 2                    intentionally or wantonly renders any highway or public passage impassable  
 3                    without unreasonable inconvenience or hazard; or

4        (b) Alone or with other persons, intentionally or wantonly prevents law  
 5                    enforcement officers from accessing an assembly, protest, demonstration, or  
 6                    other gathering of people on a highway or public passage.

7        (2) No person shall be convicted under this section solely because of a gathering of  
 8                    persons to hear him speak or otherwise communicate or solely because of being a  
 9                    member of such a gathering.

10        (3) An order to disperse issued by a peace officer or other public servant engaged in  
 11                    executing or enforcing the law and addressed to a person whose speech or other  
 12                    lawful behavior attracts an obstructing audience shall not be deemed lawful if the  
 13                    obstruction can be readily remedied by police control of the size or location of the  
 14                    gathering.

15        (4) Obstructing a highway or other public passage is a Class B misdemeanor unless  
 16                    committed during the course of a riot, in which case it is a Class D felony.

17        ➔Section 14. KRS 439.3401 is amended to read as follows:

18        (1) As used in this section, "violent offender" means any person who has been  
 19                    convicted of or pled guilty to the commission of:

20                    (a) A capital offense;

21                    (b) A Class A felony;

22                    (c) A Class B felony involving the death of the victim or serious physical injury  
 23                    to a victim;

24                    (d) An offense described in KRS 507.040 or 507.050 where the offense involves  
 25                    the killing of a peace officer, firefighter, or emergency medical services  
 26                    personnel while the peace officer, firefighter, or emergency medical services  
 27                    personnel was acting in the line of duty;



- 1 (e) A Class B felony involving criminal attempt to commit murder under KRS  
2 506.010 if the victim of the offense is a clearly identifiable peace officer,  
3 firefighter, or emergency medical services personnel acting in the line of duty,  
4 regardless of whether an injury results;
- 5 (f) The commission or attempted commission of a felony sexual offense  
6 described in KRS Chapter 510;
- 7 (g) Use of a minor in a sexual performance as described in KRS 531.310;
- 8 (h) Promoting a sexual performance by a minor as described in KRS 531.320;
- 9 (i) Unlawful transaction with a minor in the first degree as described in KRS  
10 530.064(1)(a);
- 11 (j) Human trafficking under KRS 529.100 involving commercial sexual activity  
12 where the victim is a minor;
- 13 (k) Criminal abuse in the first degree as described in KRS 508.100;
- 14 (l) Burglary in the first degree accompanied by the commission or attempted  
15 commission of an assault described in KRS 508.010, 508.020, 508.032, or  
16 508.060;
- 17 (m) Burglary in the first degree accompanied by commission or attempted  
18 commission of kidnapping as prohibited by KRS 509.040;~~or~~
- 19 (n) Robbery in the first degree;
- 20 (o) Assault in the second degree committed during the course of a riot as  
21 described in KRS 508.020; or
- 22 (p) A Class D felony violation of assault in the third degree committed during  
23 the course of a riot as described in Section 5 of this Act.

24 The court shall designate in its judgment if the victim suffered death or serious  
25 physical injury.

- 26 (2) A violent offender who has been convicted of a capital offense and who has  
27 received a life sentence (and has not been sentenced to twenty-five (25) years

1 without parole or imprisonment for life without benefit of probation or parole), or a  
2 Class A felony and receives a life sentence, or to death and his or her sentence is  
3 commuted to a life sentence shall not be released on probation or parole until he or  
4 she has served at least twenty (20) years in the penitentiary. Violent offenders may  
5 have a greater minimum parole eligibility date than other offenders who receive  
6 longer sentences, including a sentence of life imprisonment.

7 (3) (a) A violent offender who has been convicted of a capital offense or Class A  
8 felony with a sentence of a term of years or Class B felony shall not be  
9 released on probation or parole until he has served at least eighty-five percent  
10 (85%) of the sentence imposed.

11 (b) A violent offender who has been convicted of a violation of KRS 507.040  
12 where the victim of the offense was clearly identifiable as a peace officer, a  
13 firefighter, or emergency medical services personnel, and the victim was  
14 acting in the line of duty shall not be released on probation or parole until he  
15 or she has served at least eighty-five percent (85%) of the sentence imposed.

16 (c) A violent offender who has been convicted of a violation of KRS 507.040 or  
17 507.050 where the victim of the offense was a peace officer, a firefighter, or  
18 emergency medical services personnel, and the victim was acting in the line of  
19 duty shall not be released on probation or parole until he or she has served at  
20 least fifty percent (50%) of the sentence imposed.

21 (d) Any offender who has been convicted of a homicide or fetal homicide offense  
22 under KRS Chapter 507 or 507A in which the victim of the offense died as the  
23 result of an overdose of a Schedule I controlled substance and who is not  
24 otherwise subject to paragraph (a), (b), or (c) of this subsection shall not be  
25 released on probation, shock probation, parole, conditional discharge, or other  
26 form of early release until he or she has served at least fifty percent (50%) of  
27 the sentence imposed.

1        *(e) A violent offender who has been convicted of a violation of KRS 508.020 or*  
2        *a Class D felony violation of Section 5 of this Act during the course of a riot*  
3        *shall not be released on probation or parole until he or she has served at*  
4        *least eighty-five percent (85%) of the sentence imposed.*

5        (4) A violent offender shall not be awarded any credit on his sentence authorized by  
6        KRS 197.045(1)(b)1. In no event shall a violent offender be given credit on his or  
7        her sentence if the credit reduces the term of imprisonment to less than eighty-five  
8        percent (85%) of the sentence.

9        (5) This section shall not apply to a person who has been determined by a court to have  
10       been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard  
11       to the offenses involving the death of the victim or serious physical injury to the  
12       victim. The provisions of this subsection shall not extend to rape in the first degree  
13       or sodomy in the first degree by the defendant.

14       (6) This section shall apply only to those persons who commit offenses after July 15,  
15       1998.

16       (7) For offenses committed prior to July 15, 1998, the version of this statute in effect  
17       immediately prior to that date shall continue to apply.

18       (8) The provisions of subsection (1) of this section extending the definition of "violent  
19       offender" to persons convicted of or pleading guilty to robbery in the first degree  
20       shall apply only to persons whose crime was committed after July 15, 2002.

21       ➔Section 15. KRS 532.032 is amended to read as follows:

22       (1) Restitution to a named victim, if there is a named victim, shall be ordered in a  
23       manner consistent, insofar as possible, with the provisions of this section and KRS  
24       439.563, 532.033, 533.020, and 533.030 in addition to any other part of the penalty  
25       for any offense under this chapter. The provisions of this section shall not be subject  
26       to suspension or nonimposition.

27       (2) If pretrial diversion is granted, restitution shall be a part of the diversion agreement.

1 (3) If probation, shock probation, conditional discharge, or other alternative sentence is  
2 granted, restitution shall be a condition of the sentence.

3 (4) If a person is sentenced to incarceration and paroled, restitution shall be made a  
4 condition of parole.

5 **(5) If a person is convicted of any offense subject to enhanced penalties under**  
6 **Section 3 of this Act, restitution for any pecuniary loss shall be ordered by the**  
7 **court.**

8 ~~(6)~~~~(5)~~ Restitution payments ordered under this section shall be paid by the defendant  
9 to the clerk or a court-authorized program run by the county attorney or the  
10 Commonwealth's attorney of the county.

11 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO  
12 READ AS FOLLOWS:

13 **The General Assembly of the Commonwealth of Kentucky hereby finds and declares**  
14 **that:**

15 **(1) Adequate and substantial investment in law enforcement is essential to protect**  
16 **and promote the quality of life of all citizens in the Commonwealth;**

17 **(2) Governmental entities responsible for the funding of the various law enforcement**  
18 **agencies shall maintain and improve their respective financial support to the**  
19 **Commonwealth's law enforcement agencies; and**

20 **(3) The General Assembly expressly reserves the right to enact future legislation that**  
21 **would implement specific procedural requirements to ensure adequate funding**  
22 **and support of law enforcement agencies.**

23 ➔Section 17. KRS 411.100 is amended to read as follows:

24 **(1) As used in this section, "local government" means any city, county, charter**  
25 **county, urban-county government, consolidated local government, or unified**  
26 **local government.**

27 **(2)** If, within any city, any church, convent, chapel, dwelling house, house used or

1 designed for the transaction of lawful business, vessel or shipyard, railroad or  
 2 property of any kind belonging to any street or other railroad company, or any  
 3 article of personal property is damaged, or if any property is taken away or damaged  
 4 by any riotous or tumultuous assemblage of people, the full amount of the damage  
 5 done may be recovered by the person injured by action against the **local**  
 6 **government**~~[city]~~, if the **local government**~~[city authorities themselves, or with the~~  
 7 ~~aid of their own citizens, ]~~ could have prevented the damage.

8 **(3)** However, no such liability shall be incurred by the **local government**~~[city]~~ unless  
 9 the **local government**~~[city]~~ authorities had notice or good reason to believe that a  
 10 riot or tumultuous assemblage was about to take place **and were grossly negligent**  
 11 ~~in [time to] **preventing** [prevent ] the destruction[, either by their own force or by the~~  
 12 ~~aid of the citizens of the city].~~

13 **(4)** No person may maintain an action under this section if he has unlawfully  
 14 contributed by word or deed toward exciting or inflaming the tumult or riot, or if he  
 15 failed to do what he reasonably could toward preventing, allaying or suppressing it.

16 **(5) It is the intention of the General Assembly to provide the means to enable a**  
 17 **person injured by the Commonwealth; its cabinets, departments, bureaus, or**  
 18 **agencies; its officers, agents, or employees while acting within the scope of their**  
 19 **employment; its political or civil subdivisions; or the officers, agents, or**  
 20 **employees of its political or civil subdivisions while acting within the scope of**  
 21 **their employment to be able to bring an action under this section. The**  
 22 **Commonwealth thereby waives the sovereign immunity defense only in the**  
 23 **limited situations as set forth in this section.**

24 **(6) No officers, agents, or employees shall be held liable for following an order or**  
 25 **directive from a supervisor to not act to prevent damage caused by a riot or**  
 26 **tumultuous assemblage.**

27 ➔Section 18. KRS 61.912 is amended to read as follows:

1 Any duly commissioned special law enforcement officer shall, while performing law  
2 enforcement duties upon the public property he is hired to protect, be empowered to  
3 arrest:

4 (1) Persons committing, in his presence and upon the public property he is hired to  
5 protect, any misdemeanor, any traffic violation, or any other violation as defined by  
6 KRS 500.080~~[(17)]~~;

7 (2) Provided there exists probable cause to believe a felony has been committed upon  
8 the premises he is hired to protect, any person whom the officer reasonably and  
9 actually believes to have committed such felony upon the public property.

10 ➔Section 19. KRS 61.914 is amended to read as follows:

11 Duly commissioned special law enforcement officers shall have the power to issue tickets  
12 for parking violations committed upon the public property in their presence and the power  
13 of peace officers under KRS 431.015 to issue citations for misdemeanors, and other  
14 violations as defined by KRS 500.080~~[(17)]~~ committed in their presence upon the public  
15 property.

16 ➔Section 20. KRS 61.168 is amended to read as follows:

17 (1) As used in this section:

18 (a) "Body-worn camera" means a video or audio electronic recording device that  
19 is carried by or worn on the body of a public safety officer. This definition  
20 does not include a dashboard mounted camera or recording device used in the  
21 course of clandestine investigations;

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

25 (c) "Personal representative" means a court-appointed guardian, attorney, or agent  
26 possessing written authorization to act on behalf of a person that is involved in  
27 an incident contained in a body-worn camera recording, a person holding a

1 power of attorney for a person that is involved in an incident contained in a  
2 body-worn camera recording, or the parent or guardian of a minor child  
3 depicted in a body-worn camera recording. If a person depicted in the  
4 recording is deceased, the term also means the personal representative of the  
5 estate of the deceased person, the deceased person's surviving spouse, parent,  
6 or adult child, the deceased person's attorney, or the parent or guardian of a  
7 surviving minor child of the deceased;

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

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

13 (f) "Use of force" means any action by a public safety officer that results in death,  
14 physical injury as defined in KRS 500.080(15)~~[(13)]~~, discharge of a personal  
15 body weapon, chemical agent, impact weapon, extended range impact  
16 weapon, sonic weapon, sensory weapon, conducted energy weapon, or a  
17 firearm, or involves the intentional pointing of a public safety officer's firearm  
18 at a member of the public.

19 (2) Except as provided in this section, the disclosure of body-worn camera recordings  
20 shall be governed by the Kentucky Open Records Act, as set forth in KRS 61.870 to  
21 61.884.

22 (3) The retention of body-worn camera video recordings shall be governed by KRS  
23 171.410 to 171.740, and the administrative regulations promulgated by the  
24 Kentucky Department of Libraries and Archives.

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

- 1 (a) Includes the interior of a place of a private residence where there is a  
2 reasonable expectation of privacy, unless the legal owner or lessee with legal  
3 possession of the residence requests in writing that the release be governed  
4 solely under the provisions of KRS 61.870 to 61.884;
- 5 (b) Includes the areas inside of a medical facility, counseling, or therapeutic  
6 program office where a patient is registered to receive treatment, receiving  
7 treatment, waiting for treatment, or being transported in the course of  
8 treatment;
- 9 (c) Would disclose health care information shared with patients, their families, or  
10 with a patient's care team or that is considered protected health information  
11 under the Health Insurance Portability and Accountability Act of 1996;
- 12 (d) Includes the areas inside of a correctional facility when disclosure would  
13 reveal details of the facility that would jeopardize the safety, security, or well-  
14 being of those in custody, the staff of the correctional facility, or law  
15 enforcement officers;
- 16 (e) Is of a sexual nature or video footage that contains nude images of an  
17 individual's genitals, pubic area, anus, or the female nipple;
- 18 (f) Is of a minor child, including but not limited to footage involving juvenile  
19 custody matters;
- 20 (g) Includes the body of a deceased individual;
- 21 (h) Would reveal the identity of witnesses, confidential law enforcement  
22 informants, or undercover law enforcement officers, or if the release could  
23 jeopardize the safety, security, or well-being of a witness or confidential  
24 informant;
- 25 (i) Would reveal the location information of a domestic violence program or  
26 emergency shelter;
- 27 (j) Would reveal information related to schools, colleges, and universities that is



- 1           protected by the federal Family Educational Rights and Privacy Act;
- 2           (k) Would result in the disclosure of nonpublic or confidential data classified as
- 3           Criminal Justice Information Services data by the Federal Bureau of
- 4           Investigation;
- 5           (l) Includes a public safety officer carrying out duties directly related to the
- 6           hospitalization of persons considered mentally ill;
- 7           (m) Includes the depiction of the serious injury or death of a public safety officer;
- 8           or
- 9           (n) Includes footage made in conjunction with a law enforcement exercise that
- 10          includes special response team actions, hostage negotiations, or training
- 11          events, but only where the public release of tactics, operational protocol, or
- 12          methodology would disadvantage the capability of public safety officers to
- 13          successfully respond in emergency or other dangerous situations.
- 14       (5) If the recording contains video or audio footage that:
- 15           (a) Depicts an encounter between a public safety officer where there is a use of
- 16           force, the disclosure of the record shall be governed solely by the provisions
- 17           of KRS 61.870 to 61.884, including all of the exceptions contained therein;
- 18           (b) Depicts an incident which leads to the detention or arrest of an individual or
- 19           individuals, the disclosure of the record shall be governed solely by the
- 20           provisions of KRS 61.870 to 61.884, including all of the exceptions contained
- 21           therein;
- 22           (c) Depicts an incident which is the subject of a formal complaint submitted
- 23           against a public safety officer under KRS 15.520, 67C.326, or 95.450, or
- 24           depicts an incident which is the subject of a formal legal or administrative
- 25           complaint against the agency employing the public safety officer, the release
- 26           of the record shall be governed by the provisions of KRS 61.870 to 61.884,
- 27           including all of the exceptions contained therein; or

1 (d) Is requested by a person or other entity or the personal representative of a  
2 person or entity that is directly involved in the incident contained in the body-  
3 worn camera recording, it shall be made available by the public agency to the  
4 requesting party for viewing on the premises of the public agency, but the  
5 public agency shall not be required to make a copy of the recording except as  
6 provided in KRS 61.169. The requesting parties shall not be limited in the  
7 number of times they may view the recording under this paragraph.

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

10 (a) Reports by law enforcement officers and criminal justice agencies under KRS  
11 17.150;

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

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

16 ➔Section 21. KRS 525.010 is amended to read as follows:

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

18 (1) "Desecrate" means defacing, damaging, polluting, or otherwise physically  
19 mistreating in a way that the actor knows will outrage the sensibilities of persons  
20 likely to observe or discover his action.

21 (2) "Public" means affecting or likely to affect a substantial group of persons.

22 (3) "Public place" means a place to which the public or a substantial group of persons  
23 has access and includes but is not limited to highways, transportation facilities,  
24 schools, places of amusements, parks, places of business, playgrounds, and  
25 hallways, lobbies, and other portions of apartment houses and hotels not  
26 constituting rooms or apartments designed for actual residence. An act is deemed to  
27 occur in a public place if it produces its offensive or proscribed consequences in a

1 public place.

2 (4) "Transportation facility" means any conveyance, premises, or place used for or in  
3 connection with public passenger transportation by air, railroad, motor vehicle, or  
4 any other method. It includes aircraft, watercraft, railroad cars, buses, and air, boat,  
5 railroad, and bus terminals and stations and all appurtenances thereto.

6 ~~(5) ["Riot" means a public disturbance involving an assemblage of five (5) or more  
7 persons which by tumultuous and violent conduct creates grave danger of damage  
8 or injury to property or persons or substantially obstructs law enforcement or other  
9 government function.~~

10 ~~(6)~~ "Service animal" includes a:

11 (a) "Bomb detection dog," which means a dog that is trained to locate bombs or  
12 explosives by scent;

13 (b) "Narcotic detection dog," which means a dog that is trained to locate narcotics  
14 by scent;

15 (c) "Patrol dog," which means a dog that is trained to protect a peace officer and  
16 to apprehend a person;

17 (d) "Tracking dog," which means a dog that is trained to track and find a missing  
18 person, escaped inmate, or fleeing felon;

19 (e) "Search and rescue dog," which means a dog that is trained to locate lost or  
20 missing persons, victims of natural or man-made disasters, and human bodies;

21 (f) "Accelerant detection dog," which means a dog that is trained for accelerant  
22 detection, commonly referred to as arson canines;

23 (g) "Cadaver dog," which means a dog that is trained to find human remains;

24 (h) "Assistance dog," which means any dog that is trained to meet the  
25 requirements of KRS 258.500;

26 (i) Any dog that is trained in more than one (1) of the disciplines specified in  
27 paragraphs (a) to (h) of this subsection; or

1 (j) "Police horse," which means any horse that is owned, or the service of which  
2 is employed, by a law enforcement agency for the principal purpose of aiding  
3 in detection of criminal activity, enforcement of laws, and apprehension of  
4 offenders.

5 ➔Section 22. KRS 532.100 is amended to read as follows:

- 6 (1) As used in this section, "jail" means a "jail" or "regional jail" as defined in KRS  
7 441.005.
- 8 (2) When an indeterminate term of imprisonment is imposed, the court shall commit  
9 the defendant to the custody of the Department of Corrections for the term of his or  
10 her sentence and until released in accordance with the law.
- 11 (3) When a definite term of imprisonment is imposed, the court shall commit the  
12 defendant to a jail for the term of his or her sentence and until released in  
13 accordance with the law.
- 14 (4) When a sentence of death is imposed, the court shall commit the defendant to the  
15 custody of the Department of Corrections with directions that the sentence be  
16 carried out according to law.
- 17 (5) (a) The provisions of KRS 500.080(~~6~~)(~~5~~) notwithstanding, if a Class D felon is  
18 sentenced to an indeterminate term of imprisonment of five (5) years or less,  
19 he or she shall serve that term in a jail in a county in which the fiscal court has  
20 agreed to house state prisoners; except that, when an indeterminate sentence  
21 of two (2) years or more is imposed on a Class D felon convicted of a sexual  
22 offense enumerated in KRS 197.410(1), or a crime under KRS 17.510(11) or  
23 (12), the sentence shall be served in a state institution. Counties choosing not  
24 to comply with the provisions of this paragraph shall be granted a waiver by  
25 the commissioner of the Department of Corrections.
- 26 (b) The provisions of KRS 500.080(~~6~~)(~~5~~) notwithstanding, a Class D felon who  
27 received a sentence of more than five (5) years for nonviolent, nonsexual

1 offenses, but who currently has less than five (5) years remaining to be served,  
2 may serve the remainder of his or her term in a jail in a county in which the  
3 fiscal court has agreed to house state prisoners.

4 (c) 1. The provisions of KRS 500.080~~(6)~~~~(5)~~ notwithstanding, and except as  
5 provided in subparagraph 2. of this paragraph, a Class C or D felon with  
6 a sentence of more than five (5) years who is classified by the  
7 Department of Corrections as community custody shall serve that term  
8 in a jail in a county in which the fiscal court has agreed to house state  
9 prisoners if:

- 10 a. Beds are available in the jail;  
11 b. State facilities are at capacity; and  
12 c. Halfway house beds are being utilized at the contract level as of  
13 July 15, 2000.

14 2. When an indeterminate sentence of two (2) years or more is imposed on  
15 a felon convicted of a sex crime, as defined in KRS 17.500, or any  
16 similar offense in another jurisdiction, the sentence shall be served in a  
17 state institution.

18 3. Counties choosing not to comply with the provisions of this paragraph  
19 shall be granted a waiver by the commissioner of the Department of  
20 Corrections.

21 (d) Any jail that houses state inmates under this subsection shall offer programs  
22 as recommended by the Jail Standards Commission. The Department of  
23 Corrections shall adopt the recommendations of the Jail Standards  
24 Commission and promulgate administrative regulations establishing required  
25 programs for a jail that houses state inmates under this subsection. The  
26 Department of Corrections shall approve programming offered by jails to state  
27 inmates for sentencing credits in accordance with KRS 197.045.

- 1 (e) Before housing any female state inmate, a jail shall be certified pursuant to  
2 KRS 197.020.
- 3 (f) 1. a. If a jail is at or over one hundred fifty percent (150%) capacity, the  
4 Department of Corrections may direct the jail to transfer a  
5 specified number of state prisoners to vacant beds at other  
6 designated jails or state institutions. As used in this paragraph,  
7 "capacity" means the capacity listed on the certificate of occupancy  
8 issued each year to the jail by the Department of Corrections.
- 9 b. The Department of Corrections shall choose which state prisoners  
10 are eligible for transfer based on the security level of the vacant  
11 bed at the receiving jail or state institution.
- 12 c. State prisoners who are approved for transfer to a Department of  
13 Corrections facility for necessary medical treatment and care  
14 pursuant to KRS 441.560 shall not be transferred to another jail.
- 15 d. State prisoners enrolled in a Department of Corrections approved  
16 program pursuant to KRS 197.045 shall not be transferred.
- 17 e. State prisoners awaiting trial in the county they are being housed  
18 shall not be transferred.
- 19 f. Jails that receive state prisoners pursuant to this subparagraph shall  
20 be responsible for the transportation of those prisoners to the jail.
- 21 2. If the Department of Corrections directs the transfer of a state prisoner  
22 pursuant to subparagraph 1. of this paragraph, the jailer has fourteen (14)  
23 days to transfer the state prisoner. If the jailer refuses to release custody  
24 of the state prisoner to the receiving jail within fourteen (14) days, the  
25 department shall reduce the per diem for the jail for an amount equal to  
26 the per diem of that prisoner for each day the jailer refuses to comply  
27 with the direction.

- 1           3. If the Department of Corrections directs the transfer of a state prisoner  
2           pursuant to subparagraph 1. of this paragraph, the jailer of the receiving  
3           jail shall accept the transfer and transport the state prisoner in  
4           accordance with subparagraph 1.f. of this paragraph. If, after receiving a  
5           copy of the direction, the jailer refuses to accept and transport the state  
6           prisoner, the Department of Corrections shall reduce the per diem for the  
7           receiving jail for an amount equal to the per diem of that prisoner for  
8           each day the jailer refuses to comply with the direction.
- 9           4. If a jail has a vacant bed and has a Class C or Class D felon who, based  
10          on the Department of Corrections classification system, is eligible to be  
11          housed in that vacant bed, the department may direct the jail to transfer  
12          the state prisoner to that bed. If the jailer refuses to transfer the state  
13          prisoner to the vacant bed, the Department of Corrections shall reduce  
14          the per diem for the jail for an amount equal to the per diem of that  
15          prisoner for each day the jailer refuses to comply with the direction.
- 16          5. The per diem reduced pursuant to subparagraph 2., 3., or 4. of this  
17          paragraph shall be enforced by withholding the amount from the per  
18          diem paid to the jail pursuant to KRS 431.215(2).
- 19          6. If a jail that is at or over one hundred fifty percent (150%) capacity  
20          requests the transfer of a specified number of state prisoners, the  
21          Department of Corrections may, if vacant beds are available at other  
22          jails, direct the transfer in accordance with subparagraph 1. of this  
23          paragraph.
- 24          (g) If a jail has vacant beds in an area of the jail usually reserved for state  
25          prisoners, the jail may house county prisoners in that area.
- 26          (6) The jailer of a county in which a Class D felon or a Class C felon is incarcerated  
27          may request the commissioner of the Department of Corrections to incarcerate the

1       felon in a state corrections institution if the jailer has reasons to believe that the  
2       felon is an escape risk, a danger to himself or herself or other inmates, an extreme  
3       security risk, or needs protective custody beyond that which can be provided in a  
4       jail. The commissioner of the Department of Corrections shall evaluate the request  
5       and transfer the inmate if he or she deems it necessary. If the commissioner refuses  
6       to accept the felon inmate, and the Circuit Judge of the county that has jurisdiction  
7       of the offense charged is of the opinion that the felon cannot be safely kept in a jail,  
8       the Circuit Judge, with the consent of the Governor, may order the felon transferred  
9       to the custody of the Department of Corrections.

10   (7) Class D felons and Class C felons serving their time in a jail shall be considered  
11   state prisoners, and, except as provided in subsection (5)(f) of this section, the  
12   Department of Corrections shall pay the jail in which the prisoner is incarcerated a  
13   per diem amount determined according to KRS 431.215(2). For other state  
14   prisoners and parole violator prisoners, the per diem payments shall also begin on  
15   the date prescribed in KRS 431.215(2), except as provided in subsection (5)(f) of  
16   this section.

17   (8) State prisoners, excluding the Class D felons and Class C felons qualifying to serve  
18   time in jails, shall be transferred to the state institution within forty-five (45) days of  
19   final sentencing.

20   (9) (a) Class D felons eligible for placement in a jail may be permitted by the warden  
21       or jailer to participate in any approved community work program or other  
22       form of work release with the approval of the commissioner of the  
23       Department of Corrections.

24       (b) The authority to release an inmate to work under this subsection may be  
25       exercised at any time during the inmate's sentence, including the period when  
26       the court has concurrent authority to permit work release pursuant to KRS  
27       439.265.



1 (c) The warden or jailer may require an inmate participating in the program to pay  
 2 a fee to reimburse the warden or jailer for the cost of operating the community  
 3 work program or any other work release program. The fee shall not exceed the  
 4 lesser of fifty-five dollars (\$55) per week or twenty percent (20%) of the  
 5 prisoner's weekly net pay earned from the community work program or work  
 6 release participation. In addition, the inmate may be required to pay for any  
 7 drug testing performed on the inmate as a requirement of the community work  
 8 program or work release participation.

9 (d) This subsection shall not apply to an inmate who:

- 10 1. Is not eligible for work release pursuant to KRS 197.140;
- 11 2. Has a maximum or close security classification as defined by  
 12 administrative regulations promulgated by the Department of  
 13 Corrections;
- 14 3. Is subject to the provisions of KRS 532.043; or
- 15 4. Is in a reentry center as defined in KRS 441.005.

16 ➔Section 23. KRS 525.200 is amended to read as follows:

17 (1) A person is guilty of assault on a service animal in the first degree when, without  
 18 legal justification or lawful authority:

- 19 (a) He or she intentionally kills or causes serious physical injury to a service  
 20 animal;
- 21 (b) He or she intentionally causes physical injury to a service animal by means of  
 22 a deadly weapon or dangerous instrument; or
- 23 (c) He or she wantonly causes serious physical injury to a service animal by  
 24 means of a deadly weapon or dangerous instrument.

25 (2) For the purposes of this section, "service animal" has the same meaning as in KRS  
 26 525.010, except that "service animal" does not include assistance dogs as in KRS  
 27 525.010~~(5)~~~~(6)~~(h).

- 1 (3) Assault on a service animal in the first degree is a Class D felony.
- 2       ➔Section 24. This Act may be cited as the Community and First Responder
- 3 Protection Act.