

1 AN ACT relating to police reform.

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) ***"Active denial system" means a non-lethal, directed energy weapon that has the***
6 ***capability to project beams of millimeter waves at a range up to one thousand***
7 ***(1,000) meters;***
- 8 (2) "Actor" means any natural person and, where relevant, a corporation or an
9 unincorporated association;
- 10 (3) ***"Chemical agent" means any chemical that can rapidly produce sensory***
11 ***irritation or disabling physical effects in humans, and that disappear within a***
12 ***short time following exposure, including but not limited to pepper balls, pepper***
13 ***spray, and tear gas;***
- 14 (4)~~(2)~~ "Crime" means a misdemeanor or a felony;
- 15 (5)~~(3)~~ "Dangerous instrument" means any instrument, including parts of the human
16 body when a serious physical injury is a direct result of the use of that part of the
17 human body, article, or substance which, under the circumstances in which it is
18 used, attempted to be used, or threatened to be used, is readily capable of causing
19 death or serious physical injury;
- 20 (6)~~(4)~~ "Deadly weapon" means any of the following:
- 21 (a) A weapon of mass destruction;
- 22 (b) Any weapon from which a shot, readily capable of producing death or other
23 serious physical injury, may be discharged;
- 24 (c) Any knife other than an ordinary pocket knife or hunting knife;
- 25 (d) Billy, nightstick, or club;
- 26 (e) Blackjack or slapjack;
- 27 (f) Nunchaku karate sticks;

1 (g) Shuriken or death star; or

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

3 ~~(7)~~~~(5)~~ "Felony" means an offense for which a sentence to a term of imprisonment of
4 at least one (1) year in the custody of the Department of Corrections may be
5 imposed;

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

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

12 **(10) "Kinetic energy projectile" means any type of device designed as less lethal than**
13 **metal ammunition, to be launched from any device as a projectile that may cause**
14 **physical injury through the kinetic energy and blunt force trauma, including but**
15 **not limited to rubber bullets, plastic bullets, beanbag rounds, wood baton rounds,**
16 **and foam-tipped plastic rounds;**

17 ~~(11)~~~~(8)~~ "Law" includes statutes, ordinances, and properly adopted regulatory
18 provisions. Unless the context otherwise clearly requires, "law" also includes the
19 common law;

20 **(12) "Long-range acoustic device" means any type of device designed to emit a high-**
21 **decibel, focused beam of sound that may cause physical injury;**

22 ~~(13)~~~~(9)~~ "Minor" means any person who has not reached the age of majority as defined
23 in KRS 2.015;

24 ~~(14)~~~~(10)~~ "Misdemeanor" means an offense, other than a traffic infraction, for which a
25 sentence to a term of imprisonment of not more than twelve (12) months can be
26 imposed;

27 ~~(15)~~~~(11)~~ "Offense" means conduct for which a sentence to a term of imprisonment or to

1 a fine is provided by any law of this state or by any law, local law, or ordinance of a
2 political subdivision of this state or by any law, order, rule, or regulation of any
3 governmental instrumentality authorized by law to adopt the same;

4 (16)~~[(12)]~~ "Person" means a human being, and where appropriate, a public or private
5 corporation, an unincorporated association, a partnership, a government, or a
6 governmental authority;

7 (17)~~[(13)]~~ "Physical injury" means substantial physical pain or any impairment of
8 physical condition;

9 (18)~~[(14)]~~ "Possession" means to have actual physical possession or otherwise to
10 exercise actual dominion or control over a tangible object;

11 (19)~~[(15)]~~ "Serious physical injury" means physical injury which creates a substantial
12 risk of death, or which causes serious and prolonged disfigurement, prolonged
13 impairment of health, or prolonged loss or impairment of the function of any bodily
14 organ. For a child twelve (12) years of age or less at the time of the injury, a serious
15 physical injury includes but is not limited to the following:

- 16 (a) Bruising near the eyes, or on the head, neck, or lower back overlying the
17 kidneys;
- 18 (b) Any bruising severe enough to cause underlying muscle damage as
19 determined by elevated creatine kinase levels in the blood;
- 20 (c) Any bruising or soft tissue injury to the genitals that affects the ability to
21 urinate or defecate;
- 22 (d) Any testicular injury sufficient to put fertility at risk;
- 23 (e) Any burn near the eyes or involving the mouth, airway, or esophagus;
- 24 (f) Any burn deep enough to leave scarring or dysfunction of the body;
- 25 (g) Any burn requiring hospitalization, debridement in the operating room, IV
26 fluids, intubation, or admission to a hospital's intensive care unit;
- 27 (h) Rib fracture;

- 1 (i) Scapula or sternum fractures;
- 2 (j) Any broken bone that requires surgery;
- 3 (k) Head injuries that result in intracranial bleeding, skull fracture, or brain injury;
- 4 (l) A concussion that results in the child becoming limp, unresponsive, or results
- 5 in seizure activity;
- 6 (m) Abdominal injuries that indicate internal organ damage regardless of whether
- 7 surgery is required;
- 8 (n) Any injury requiring surgery;
- 9 (o) Any injury that requires a blood transfusion; and
- 10 (p) Any injury requiring admission to a hospital's critical care unit;
- 11 ~~(20)~~~~(16)~~ "Unlawful" means contrary to law or, where the context so requires, not
- 12 permitted by law. It does not mean wrongful or immoral;
- 13 ~~(21)~~~~(17)~~ "Violation" means an offense, other than a traffic infraction, for which a
- 14 sentence to a fine only can be imposed; and
- 15 ~~(22)~~~~(18)~~ "Weapon of mass destruction" means:
- 16 (a) Any destructive device as defined in KRS 237.030, but not fireworks as
- 17 defined in KRS 227.700;
- 18 (b) Any weapon that is designed or intended to cause death or serious physical
- 19 injury through the release, dissemination, or impact of toxic or poisonous
- 20 chemicals or their precursors;
- 21 (c) Any weapon involving a disease organism; or
- 22 (d) Any weapon that is designed to release radiation or radioactivity at a level
- 23 dangerous to human life.
- 24 ➔Section 2. KRS 503.090 is amended to read as follows:
- 25 (1) The use of physical force by a defendant upon another person is justifiable when the
- 26 defendant, acting under official authority, is making or assisting in making an arrest,
- 27 and he:

- 1 (a) Believes that such force is necessary to effect the arrest;
- 2 (b) Makes known the purpose of the arrest or believes that it is otherwise known
3 or cannot reasonably be made known to the person to be arrested; and
- 4 (c) Believes the arrest to be lawful.
- 5 (2) The use of deadly physical force by a defendant upon another person is justifiable
6 under subsection (1) only when:
- 7 (a) The defendant, in effecting the arrest, is authorized to act as a peace officer;
8 and
- 9 (b) The arrest is for a felony involving the use or threatened use of physical force
10 likely to cause death or serious physical injury; and
- 11 (c) The defendant believes that the person to be arrested is likely to endanger
12 human life unless apprehended without delay.
- 13 (3) The use of physical force, including deadly physical force, by a defendant upon
14 another person is justifiable when the defendant is preventing the escape of an
15 arrested person and when the force could justifiably have been used to effect the
16 arrest under which the person is in custody, except that a guard or other person
17 authorized to act as a peace officer is justified in using any force, including deadly
18 force, which he believes to be necessary to prevent the escape of a person from jail,
19 prison, or other institution for the detention of persons charged with or convicted of
20 a crime.
- 21 **(4) The use of active denial systems, kinetic energy projectiles, chemical agents, or**
22 **long-range acoustic devices by a defendant upon another person is justifiable**
23 **only when:**
- 24 **(a) The defendant is authorized to act as a peace officer; and**
- 25 **(b) The defendant reasonably believes that such force is necessary to protect**
26 **another person from imminent serious physical injury or death.**
- 27 ➔Section 3. KRS 15.334 is amended to read as follows:

- 1 (1) The Kentucky Law Enforcement Council shall approve mandatory training subjects
2 to be taught to all students attending a law enforcement basic training course that
3 include but are not limited to:
- 4 (a) Abuse, neglect, and exploitation of the elderly and other crimes against the
5 elderly, including the use of multidisciplinary teams in the investigation and
6 prosecution of crimes against the elderly;
- 7 (b) The dynamics of domestic violence, pediatric abusive head trauma, as defined
8 in KRS 620.020, child physical and sexual abuse, and rape; child
9 development; the effects of abuse and crime on adult and child victims,
10 including the impact of abuse and violence on child development; legal
11 remedies for protection; lethality and risk issues; profiles of offenders and
12 offender treatment; model protocols for addressing domestic violence, rape,
13 pediatric abusive head trauma, as defined in KRS 620.020, and child abuse;
14 available community resources and victim services; and reporting
15 requirements. This training shall be developed in consultation with legal,
16 victim services, victim advocacy, and mental health professionals with
17 expertise in domestic violence, child abuse, and rape. Training in recognizing
18 pediatric abusive head trauma may be designed in collaboration with
19 organizations and agencies that specialize in the prevention and recognition of
20 pediatric abusive head trauma approved by the secretary of the Cabinet for
21 Health and Family Services;
- 22 (c) Human immunodeficiency virus infection and acquired immunodeficiency
23 virus syndrome;
- 24 (d) Identification and investigation of, responding to, and reporting bias-related
25 crime, victimization, or intimidation that is a result of or reasonably related to
26 race, color, religion, sex, or national origin;
- 27 (e) The characteristics and dynamics of human trafficking, state and federal laws

1 relating to human trafficking, the investigation of cases involving human
2 trafficking, including but not limited to screening for human trafficking, and
3 resources for assistance to the victims of human trafficking;

4 (f) Beginning January 1, 2017, the council shall require that a law enforcement
5 basic training course include at least eight (8) hours of training relevant to
6 sexual assault;~~and~~

7 (g) Education on female genital mutilation as defined in KRS 508.125, including
8 the risk factors associated with female genital mutilation, the criminal
9 penalties for committing female genital mutilation, and the psychological and
10 health effects on a victim of female genital mutilation; **and**

11 **(h) De-escalation and crisis intervention training equal to the number of hours**
12 **for deadly force training.**

13 (2) (a) The council shall develop and approve mandatory in-service training courses
14 to be presented to all certified peace officers. The council may promulgate
15 administrative regulations in accordance with KRS Chapter 13A setting forth
16 the deadlines by which all certified peace officers shall attend the mandatory
17 in-service training courses.

18 (b) Beginning January 1, 2017, the council shall establish a forty (40) hour sexual
19 assault investigation training course. After January 1, 2019, agencies shall
20 maintain officers on staff who have completed the forty (40) hour sexual
21 assault investigation training course in accordance with the following:

22 1. Agencies with more than ten (10) but fewer than twenty-one (21) full-
23 time officers shall maintain one (1) officer who has completed the forty
24 (40) hour sexual assault investigation training course;

25 2. Agencies with twenty-one (21) or more but fewer than fifty-one (51)
26 full-time officers shall maintain at least two (2) officers who have
27 completed the forty (40) hour sexual assault investigation training

1 course; and

2 3. Agencies with fifty-one (51) or more full-time officers shall maintain at
3 least four (4) officers who have completed the sexual assault
4 investigation course.

5 (c) An agency shall not make an officer directly responsible for the investigation
6 or processing of sexual assault offenses unless that officer has completed the
7 forty (40) hour sexual assault investigation training course.

8 (d) The council may, upon application by any agency, grant an exemption from
9 the training requirements set forth in paragraph (b) of this subsection if that
10 agency, by limitations arising from its scope of authority, does not conduct
11 sexual assault investigations.

12 (e) Any agency failing to comply with paragraph (b) or (c) of this subsection
13 shall, from the date the noncompliance commences, have one (1) year to
14 reestablish the minimum number of trained officers required.

15 (3) The Justice and Public Safety Cabinet shall provide training on the subjects of
16 domestic violence and abuse and may do so utilizing currently available technology.
17 All certified peace officers shall be required to complete this training at least once
18 every two (2) years.

19 (4) The council shall promulgate administrative regulations in accordance with KRS
20 Chapter 13A to establish mandatory basic training and in-service training courses.

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

23 **(1) As used in this section:**

24 **(a) "Active denial system" means a non-lethal, directed energy weapon that**
25 **has the capability to project beams of millimeter waves at a range up to one**
26 **thousand (1,000) meters;**

27 **(b) "Chemical agent" means any chemical that can rapidly produce sensory**

1 irritation or disabling physical effects in humans, and that disappear within
2 a short time following exposure, including but not limited to pepper balls,
3 pepper spray, and tear gas;

4 (c) "Kettling" means using a police line to encircle, or substantially encircle,
5 an assembly, protest, demonstration, or other gathering of people that:

6 1. Is not implemented for the safety of those participating in the
7 assembly, protest, demonstration, or other gathering of people; or

8 2. Prevents people from leaving the area after announcing an order to
9 disperse;

10 (d) "Kinetic energy projectile" means any type of device designed as less lethal
11 than metal ammunition, to be launched from any device as a projectile that
12 may cause physical injury through the kinetic energy and blunt force
13 trauma, including but not limited to rubber bullets, plastic bullets, beanbag
14 rounds, wood baton rounds, and foam-tipped plastic rounds; and

15 (e) "Long-range acoustic device" means any type of device designed to emit a
16 high-decibel, focused beam of sound that may cause physical injury.

17 (2) A law enforcement agency or law enforcement officer shall not:

18 (a) Use kettling as a method to control crowds;

19 (b) Destroy or dispose of medical supplies possessed by emergency medical
20 personnel or people present at an assembly, protest, demonstration, or other
21 gathering of people;

22 (c) Prevent a person from recording law enforcement officers during the
23 course of their duties; or

24 (d) Use active denial systems, kinetic energy projectiles, chemical agents, or
25 long-range acoustic devices unless a peace officer reasonably believes that
26 such force is necessary to protect another person from imminent serious
27 physical injury or death.

1 (3) If a law enforcement agency violates this section, the Kentucky Law Enforcement
 2 Council may suspend the agency from participation in or reduce the amount of
 3 funds received from the Kentucky Law Enforcement Foundation Program fund
 4 for no less than one (1) year and not more than five (5) years.

5 (4) Any person who witnesses a law enforcement agency or law enforcement officer
 6 violating this section may submit a complaint to the Kentucky Law Enforcement
 7 Council to conduct an administrative hearing in accordance with KRS Chapter
 8 13B.

9 (5) A complainant may appeal a final order issued by the Kentucky Law
 10 Enforcement Council to the secretary of the Justice and Public Safety Cabinet.

11 (6) A complainant may appeal a final order issued by the secretary of the Justice and
 12 Public Safety Cabinet as provided in KRS 13B.140.

13 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
 14 READ AS FOLLOWS:

15 (1) As used in this section:

16 (a) "IMSI-catcher" means a telephone eavesdropping device used for
 17 intercepting mobile phone traffic and tracking location date of mobile
 18 phone users; and

19 (b) "Active denial system" means a non-lethal, directed energy weapon that
 20 has the capability to project beams of millimeter waves at a range up to one
 21 thousand (1,000) meters.

22 (2) A law enforcement agency may not receive the following property from a military
 23 equipment surplus program operated by the federal government:

24 (a) Drones that are armored, weaponized, or both;

25 (b) Aircraft that are combat-configured or combat-coded;

26 (c) Grenades or similar explosives and grenade launchers;

27 (d) Silencers;

1 (e) IMSI-catchers;

2 (f) Active denial systems; or

3 (g) Militarized armored vehicles.

4 (3) If a law enforcement agency requests property from a military equipment surplus
 5 program, the law enforcement agency shall publish a notice of the request on a
 6 publicly accessible Web site within fourteen (14) days after the request.

7 (4) If a law enforcement agency possesses any of the property described in subsection
 8 (2) of this section, the law enforcement agency shall forfeit or dispose of such
 9 property within one hundred eighty (180) days after the effective date of this Act.

10 ➔Section 6. KRS 15.440 is amended to read as follows:

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

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

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

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

21 (d) 1. Requires all police officers to successfully complete a basic training
 22 course of nine hundred twenty-eight (928) hours' duration within one (1)
 23 year of the date of employment at a school certified or recognized by the
 24 council, which may provide a different number of hours of instruction as
 25 established in this paragraph, except that each police officer employed
 26 prior to the date on which the officer's police department was included
 27 as a participant under KRS 15.410 to 15.510 shall be deemed to have

- 1 met the requirements of this subsection.
- 2 2. As the exclusive method by which the number of hours required for
3 basic training courses shall be modified from that which is specifically
4 established by this paragraph, the council may, by the promulgation of
5 administrative regulations in accordance with the provisions of KRS
6 Chapter 13A, explicitly set the exact number of hours for basic training
7 at a number different from nine hundred twenty-eight (928) hours based
8 upon a training curriculum approved by the Kentucky Law Enforcement
9 Council as determined by a validated job task analysis.
- 10 3. If the council sets an exact number of hours different from nine hundred
11 twenty-eight (928) in an administrative regulation as provided by this
12 paragraph, it shall not further change the number of hours required for
13 basic training without promulgating administrative regulations in
14 accordance with the provisions of KRS Chapter 13A.
- 15 4. Nothing in this paragraph shall be interpreted to prevent the council,
16 pursuant to its authority under KRS 15.330, from approving training
17 schools with a curriculum requiring attendance of a number of hours that
18 exceeds nine hundred twenty-eight (928) hours or the number of hours
19 established in an administrative regulation as provided by subparagraphs
20 2. and 3. of this paragraph. However, the training programs and schools
21 for the basic training of law enforcement personnel conducted by the
22 department pursuant to KRS 15A.070 shall not contain a curriculum that
23 requires attendance of a number of hours for basic training that is
24 different from nine hundred twenty-eight (928) hours or the number of
25 hours established in an administrative regulation promulgated by the
26 council pursuant to the provisions of KRS Chapter 13A as provided by
27 subparagraphs 2. and 3. of this paragraph.

- 1 5. KRS 15.400 and 15.404(1), and subparagraphs 1. to 4. of this paragraph
2 to the contrary notwithstanding, the council may, through the
3 promulgation of administrative regulations in accordance with KRS
4 Chapter 13A, approve basic training credit for:
- 5 a. Years of service credit as a law enforcement officer with previous
6 service in another state; and
7 b. Basic training completed in another state.
- 8 6. KRS 15.400 and 15.404(1) and subparagraphs 1. to 4. of this paragraph
9 to the contrary notwithstanding, the council may, through the
10 promulgation of administrative regulations in accordance with KRS
11 Chapter 13A, approve basic training credit for:
- 12 a. Completion of eight hundred forty-eight (848) hours of training at
13 a school established pursuant to KRS 15A.070;
14 b. A minimum of fifteen (15) years of experience as a certified law
15 enforcement instructor at a school established pursuant to KRS
16 15A.070;
17 c. Completion of an average of forty (40) hours of Kentucky Law
18 Enforcement Council approved in-service training annually from
19 January 1, 1997, through January 1, 2020;
20 d. Completion of all mandatory training obligations under KRS
21 15.334 from January 1, 1997, to January 1, 2020;
22 e. Three (3) years of active, full-time service as a:
23 i. City, county, urban-county, charter county, consolidated
24 local, or unified local government police officer;
25 ii. Sheriff's deputy, excluding special deputies appointed under
26 KRS 70.045;
27 iii. Department of Kentucky State Police officer; or

- 1 iv. Kentucky Department of Fish and Wildlife Resources
2 conservation officer exercising peace officer powers under
3 KRS 150.090; and
- 4 f. Completion of the:
- 5 i. Twenty-four (24) hour legal update Penal Code course;
6 ii. Sixteen (16) hour legal update constitutional procedure
7 course; and
8 iii. Forty (40) hour basic officer skills course within one (1) year
9 prior to applying for certification;
- 10 (e) Requires all police officers to successfully complete each calendar year an in-
11 service training course, appropriate to the officer's rank and responsibility and
12 the size and location of the officer's police department, of forty (40) hours'
13 duration, at a school certified or recognized by the council which may include
14 a four (4) hour course which meets the requirements of paragraph (j) of this
15 subsection. This in-service training requirement shall be waived for the period
16 of time that a peace officer is serving on active duty in the United States
17 Armed Forces. This waiver shall be retroactive for peace officers from the
18 date of September 11, 2001;
- 19 (f) Complies with all provisions of law applicable to police officers or police
20 departments, including:
- 21 1. Transmission of data to the centralized criminal history record
22 information system as required by KRS 17.150;
- 23 2. ~~and~~ Transmission of reports as required by KRS 15.391; and
24 3. *Prohibition of certain law enforcement tactics as required by Section 4*
25 *of this Act;*
- 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) Requires all police officers to successfully complete by December 31, 2022,
12 and every two (2) years thereafter, a training course certified by the council of
13 not less than four (4) hours in emergency vehicle operation.
- 14 (2) A unit of government which meets the criteria of this section shall be eligible to
15 continue sharing in the distribution of funds from the Law Enforcement Foundation
16 Program fund only if the police department of the unit of government remains in
17 compliance with the requirements of this section.
- 18 (3) Deputies employed by a sheriff's office shall be eligible to participate in the
19 distribution of funds from the Law Enforcement Foundation Program fund
20 regardless of participation by the sheriff.
- 21 (4) Failure to meet a deadline established in a policy adopted pursuant to subsection
22 (1)(i) of this section for the retrieval or submission of evidence shall not be a basis
23 for a dismissal of a criminal action or a bar to the admissibility of the evidence in a
24 criminal action.

25 ➔Section 7. KRS 61.168 is amended to read as follows:

26 (1) As used in this section:

27 (a) "Body-worn camera" means a video or audio electronic recording device that

- 1 is carried by or worn on the body of a public safety officer. This definition
2 does not include a dashboard mounted camera or recording device used in the
3 course of clandestine investigations;
- 4 (b) "Body-worn camera recording" or "recording" means a video or audio
5 recording, or both, that is made by a body-worn camera during the course of a
6 public safety officer's official duties;
- 7 (c) "Personal representative" means a court-appointed guardian, attorney, or agent
8 possessing written authorization to act on behalf of a person that is involved in
9 an incident contained in a body-worn camera recording, a person holding a
10 power of attorney for a person that is involved in an incident contained in a
11 body-worn camera recording, or the parent or guardian of a minor child
12 depicted in a body-worn camera recording. If a person depicted in the
13 recording is deceased, the term also means the personal representative of the
14 estate of the deceased person, the deceased person's surviving spouse, parent,
15 or adult child, the deceased person's attorney, or the parent or guardian of a
16 surviving minor child of the deceased;
- 17 (d) "Public agency" has the same meaning as in KRS 61.870(1);
- 18 (e) "Public safety officer" means any individual that is an employee of a public
19 agency who is certified as a first responder under KRS Chapter 311A or
20 whose employment duties include law enforcement or firefighting activities;
21 and
- 22 (f) "Use of force" means any action by a public safety officer that results in death,
23 physical injury as defined in KRS 500.080~~{(13)}~~, discharge of a personal body
24 weapon, chemical agent, impact weapon, extended range impact weapon,
25 sonic weapon, sensory weapon, conducted energy weapon, or a firearm, or
26 involves the intentional pointing of a public safety officer's firearm at a
27 member of the public.

- 1 (2) Except as provided in this section, the disclosure of body-worn camera recordings
2 shall be governed by the Kentucky Open Records Act, as set forth in KRS 61.870 to
3 61.884.
- 4 (3) The retention of body-worn camera video recordings shall be governed by KRS
5 171.410 to 171.740, and the administrative regulations promulgated by the
6 Kentucky Department of Libraries and Archives.
- 7 (4) Notwithstanding KRS 61.878(4), unless the request meets the criteria provided
8 under subsection (5) of this section, a public agency may elect not to disclose body-
9 worn camera recordings containing video or audio footage that:
- 10 (a) Includes the interior of a place of a private residence where there is a
11 reasonable expectation of privacy, unless the legal owner or lessee with legal
12 possession of the residence requests in writing that the release be governed
13 solely under the provisions of KRS 61.870 to 61.884;
- 14 (b) Includes the areas inside of a medical facility, counseling, or therapeutic
15 program office where a patient is registered to receive treatment, receiving
16 treatment, waiting for treatment, or being transported in the course of
17 treatment;
- 18 (c) Would disclose health care information shared with patients, their families, or
19 with a patient's care team or that is considered protected health information
20 under the Health Insurance Portability and Accountability Act of 1996;
- 21 (d) Includes the areas inside of a correctional facility when disclosure would
22 reveal details of the facility that would jeopardize the safety, security, or well-
23 being of those in custody, the staff of the correctional facility, or law
24 enforcement officers;
- 25 (e) Is of a sexual nature or video footage that contains nude images of an
26 individual's genitals, pubic area, anus, or the female nipple;
- 27 (f) Is of a minor child, including but not limited to footage involving juvenile

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

1 individuals, the disclosure of the record shall be governed solely by the
2 provisions of KRS 61.870 to 61.884, including all of the exceptions contained
3 therein;

4 (c) Depicts an incident which is the subject of a formal complaint submitted
5 against a public safety officer under KRS 15.520, 67C.326, or 95.450, or
6 depicts an incident which is the subject of a formal legal or administrative
7 complaint against the agency employing the public safety officer, the release
8 of the record shall be governed by the provisions of KRS 61.870 to 61.884,
9 including all of the exceptions contained therein; or

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

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

19 (a) Reports by law enforcement officers and criminal justice agencies under KRS
20 17.150;

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

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

25 ➔Section 8. KRS 61.912 is amended to read as follows:

26 Any duly commissioned special law enforcement officer shall, while performing law
27 enforcement duties upon the public property he is hired to protect, be empowered to

1 arrest:

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

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

8 ➔Section 9. KRS 61.914 is amended to read as follows:

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

14 ➔Section 10. KRS 532.100 is amended to read as follows:

15 (1) As used in this section, "jail" means a "jail" or "regional jail" as defined in KRS
16 441.005.

17 (2) When an indeterminate term of imprisonment is imposed, the court shall commit
18 the defendant to the custody of the Department of Corrections for the term of his or
19 her sentence and until released in accordance with the law.

20 (3) When a definite term of imprisonment is imposed, the court shall commit the
21 defendant to a jail for the term of his or her sentence and until released in
22 accordance with the law.

23 (4) When a sentence of death is imposed, the court shall commit the defendant to the
24 custody of the Department of Corrections with directions that the sentence be
25 carried out according to law.

26 (5) (a) The provisions of KRS 500.080~~[(5)]~~ notwithstanding, if a Class D felon is
27 sentenced to an indeterminate term of imprisonment of five (5) years or less,

1 he or she shall serve that term in a jail in a county in which the fiscal court has
2 agreed to house state prisoners; except that, when an indeterminate sentence
3 of two (2) years or more is imposed on a Class D felon convicted of a sexual
4 offense enumerated in KRS 197.410(1), or a crime under KRS 17.510(11) or
5 (12), the sentence shall be served in a state institution. Counties choosing not
6 to comply with the provisions of this paragraph shall be granted a waiver by
7 the commissioner of the Department of Corrections.

8 (b) The provisions of KRS 500.080~~[(5)]~~ notwithstanding, a Class D felon who
9 received a sentence of more than five (5) years for nonviolent, nonsexual
10 offenses, but who currently has less than five (5) years remaining to be served,
11 may serve the remainder of his or her term in a jail in a county in which the
12 fiscal court has agreed to house state prisoners.

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

- 19 a. Beds are available in the jail;
20 b. State facilities are at capacity; and
21 c. Halfway house beds are being utilized at the contract level as of
22 July 15, 2000.

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

27 3. Counties choosing not to comply with the provisions of this paragraph

1 shall be granted a waiver by the commissioner of the Department of
2 Corrections.

3 (d) Any jail that houses state inmates under this subsection shall offer programs
4 as recommended by the Jail Standards Commission. The Department of
5 Corrections shall adopt the recommendations of the Jail Standards
6 Commission and promulgate administrative regulations establishing required
7 programs for a jail that houses state inmates under this subsection. The
8 Department of Corrections shall approve programming offered by jails to state
9 inmates for sentencing credits in accordance with KRS 197.045.

10 (e) Before housing any female state inmate, a jail shall be certified pursuant to
11 KRS 197.020.

12 (f) 1. a. If a jail is at or over one hundred fifty percent (150%) capacity, the
13 Department of Corrections may direct the jail to transfer a
14 specified number of state prisoners to vacant beds at other
15 designated jails or state institutions. As used in this paragraph,
16 "capacity" means the capacity listed on the certificate of occupancy
17 issued each year to the jail by the Department of Corrections.

18 b. The Department of Corrections shall choose which state prisoners
19 are eligible for transfer based on the security level of the vacant
20 bed at the receiving jail or state institution.

21 c. State prisoners who are approved for transfer to a Department of
22 Corrections facility for necessary medical treatment and care
23 pursuant to KRS 441.560 shall not be transferred to another jail.

24 d. State prisoners enrolled in a Department of Corrections approved
25 program pursuant to KRS 197.045 shall not be transferred.

26 e. State prisoners awaiting trial in the county they are being housed
27 shall not be transferred.

- 1 f. Jails that receive state prisoners pursuant to this subparagraph shall
2 be responsible for the transportation of those prisoners to the jail.
- 3 2. If the Department of Corrections directs the transfer of a state prisoner
4 pursuant to subparagraph 1. of this paragraph, the jailer has fourteen (14)
5 days to transfer the state prisoner. If the jailer refuses to release custody
6 of the state prisoner to the receiving jail within fourteen (14) days, the
7 department shall reduce the per diem for the jail for an amount equal to
8 the per diem of that prisoner for each day the jailer refuses to comply
9 with the direction.
- 10 3. If the Department of Corrections directs the transfer of a state prisoner
11 pursuant to subparagraph 1. of this paragraph, the jailer of the receiving
12 jail shall accept the transfer and transport the state prisoner in
13 accordance with subparagraph 1.f. of this paragraph. If, after receiving a
14 copy of the direction, the jailer refuses to accept and transport the state
15 prisoner, the Department of Corrections shall reduce the per diem for the
16 receiving jail for an amount equal to the per diem of that prisoner for
17 each day the jailer refuses to comply with the direction.
- 18 4. If a jail has a vacant bed and has a Class C or Class D felon who, based
19 on the Department of Corrections classification system, is eligible to be
20 housed in that vacant bed, the department may direct the jail to transfer
21 the state prisoner to that bed. If the jailer refuses to transfer the state
22 prisoner to the vacant bed, the Department of Corrections shall reduce
23 the per diem for the jail for an amount equal to the per diem of that
24 prisoner for each day the jailer refuses to comply with the direction.
- 25 5. The per diem reduced pursuant to subparagraph 2., 3., or 4. of this
26 paragraph shall be enforced by withholding the amount from the per
27 diem paid to the jail pursuant to KRS 431.215(2).

1 6. If a jail that is at or over one hundred fifty percent (150%) capacity
2 requests the transfer of a specified number of state prisoners, the
3 Department of Corrections may, if vacant beds are available at other
4 jails, direct the transfer in accordance with subparagraph 1. of this
5 paragraph.

6 (g) If a jail has vacant beds in an area of the jail usually reserved for state
7 prisoners, the jail may house county prisoners in that area.

8 (6) The jailer of a county in which a Class D felon or a Class C felon is incarcerated
9 may request the commissioner of the Department of Corrections to incarcerate the
10 felon in a state corrections institution if the jailer has reasons to believe that the
11 felon is an escape risk, a danger to himself or herself or other inmates, an extreme
12 security risk, or needs protective custody beyond that which can be provided in a
13 jail. The commissioner of the Department of Corrections shall evaluate the request
14 and transfer the inmate if he or she deems it necessary. If the commissioner refuses
15 to accept the felon inmate, and the Circuit Judge of the county that has jurisdiction
16 of the offense charged is of the opinion that the felon cannot be safely kept in a jail,
17 the Circuit Judge, with the consent of the Governor, may order the felon transferred
18 to the custody of the Department of Corrections.

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

26 (8) State prisoners, excluding the Class D felons and Class C felons qualifying to serve
27 time in jails, shall be transferred to the state institution within forty-five (45) days of

1 final sentencing.

- 2 (9) (a) Class D felons eligible for placement in a jail may be permitted by the warden
3 or jailer to participate in any approved community work program or other
4 form of work release with the approval of the commissioner of the
5 Department of Corrections.
- 6 (b) The authority to release an inmate to work under this subsection may be
7 exercised at any time during the inmate's sentence, including the period when
8 the court has concurrent authority to permit work release pursuant to KRS
9 439.265.
- 10 (c) The warden or jailer may require an inmate participating in the program to pay
11 a fee to reimburse the warden or jailer for the cost of operating the community
12 work program or any other work release program. The fee shall not exceed the
13 lesser of fifty-five dollars (\$55) per week or twenty percent (20%) of the
14 prisoner's weekly net pay earned from the community work program or work
15 release participation. In addition, the inmate may be required to pay for any
16 drug testing performed on the inmate as a requirement of the community work
17 program or work release participation.
- 18 (d) This subsection shall not apply to an inmate who:
- 19 1. Is not eligible for work release pursuant to KRS 197.140;
 - 20 2. Has a maximum or close security classification as defined by
21 administrative regulations promulgated by the Department of
22 Corrections;
 - 23 3. Is subject to the provisions of KRS 532.043; or
 - 24 4. Is in a reentry center as defined in KRS 441.005.