

1 AN ACT relating to firearms.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 15 of this Act:*

6 *(1) "Extreme risk protection order" means any extreme risk protection order issued*
7 *by a District Court pursuant to Section 5 of this Act, including those issued on a*
8 *temporary basis under Section 3 of this Act, and including a foreign extreme risk*
9 *protection order filed under Section 13 of this Act;*

10 *(2) (a) "Law enforcement officer" means a sworn member of a lawfully organized*
11 *police unit or police force of state, county, city, urban-county, charter*
12 *county, consolidated local, or unified local government who is responsible*
13 *for the detection of crime and the enforcement of the general criminal laws*
14 *of the state, as well as a federal police officer, sheriff, sworn deputy sheriff,*
15 *and campus police officer who is commissioned under KRS 164.950;*

16 *(b) "Law enforcement officer" does not include any constable, deputy*
17 *constable, district detective, deputy district detective, special local peace*
18 *officer, special law enforcement officer, or auxiliary police officer;*

19 *(3) "Petitioner" means an individual who files a petition for an extreme risk*
20 *protection order under Sections 1 to 15 of this Act and is one of the following*
21 *persons:*

22 *(a) A law enforcement officer;*

23 *(b) A county attorney;*

24 *(c) A person related to the respondent by blood, marriage, adoption, or*
25 *guardianship;*

26 *(d) A person who has a child in common with the respondent;*

27 *(e) A current dating or intimate partner of the respondent;*

1 (f) A person who regularly resides in the household of the respondent; or

2 (g) A qualified mental health professional, as defined by KRS 202A.011, who
3 has examined the respondent;

4 (4) "Respondent" means the person against whom an extreme risk protection order
5 is sought; and

6 (5) "Responsible party" means a person who:

7 (a) Does not cohabit with the respondent;

8 (b) May lawfully possess a firearm; and

9 (c) Is willing to enter into a written court agreement to accept the transfer of a
10 firearm as a responsible party under Section 9 of this Act.

11 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
12 READ AS FOLLOWS:

13 (1) A petitioner may file a petition for an extreme risk protection order.

14 (2) The petition shall be filed in the respondent's county of residence.

15 (3) The petition shall contain:

16 (a) The name and job title or rank of the petitioner;

17 (b) The name, age, address, and county of residence of the respondent, if
18 known;

19 (c) The facts and circumstances which constitute the basis for the petition; and

20 (d) Descriptions of the number, types, and locations of any firearms presently
21 believed by the petitioner to be possessed or controlled by the respondent.

22 (4) The petition shall be filed on forms prescribed by the Administrative Office of the
23 Courts and provided to petitioners by the circuit clerk.

24 (5) In all proceedings under Sections 3, 5, 8 and 10 of this Act, it shall be the duty of
25 the county attorney to assist the petitioner, to represent the interest of the
26 Commonwealth, and to assist the court in its inquiry by the presentation of
27 evidence.

1 (6) (a) The District Court shall have exclusive jurisdiction over extreme risk
 2 protection orders.

3 (b) The Court of Justice shall provide a protocol for twenty-four (24) hour
 4 access to extreme risk protection orders in each county. Any protocol,
 5 whether statewide or local, shall be subject to Supreme Court review and
 6 approval of the initial protocol and any subsequent amendments.

7 (7) Any judge to whom a petition is referred under this section shall have full
 8 authority to review and hear a petition and subsequently grant and enforce an
 9 extreme risk protection order.

10 (8) If the judge of the District Court in which there is a pending request for
 11 termination, modification, or enforcement of an existing order of protection is
 12 unavailable or unable to act within a reasonable time, the proceedings may be
 13 conducted by any judge of the same judicial district in accordance with court
 14 rules.

15 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
 16 READ AS FOLLOWS:

17 (1) (a) The court shall review a petition for an extreme risk protection order
 18 immediately upon its filing.

19 1. If the court finds there is probable cause that the respondent poses an
 20 immediate and present danger of causing serious physical injury to
 21 self or others by purchasing, possessing, receiving, or having in his or
 22 her custody or control a firearm, the court shall, without prior notice
 23 to the respondent, issue a temporary extreme risk protection order, set
 24 a date for an evidentiary hearing within fourteen (14) days, and issue
 25 a summons to the parties.

26 2. If the court finds there is not probable cause that the respondent poses
 27 an immediate and present danger of causing serious physical injury to

1 self or others, the court may consider an amended petition supplying
2 new information or dismiss the petition without prejudice.

3 3. In reviewing the petition, the court shall consider the time that has
4 elapsed since the events described in the petition occurred.

5 (b) Service of the temporary extreme risk protection order, summons, and
6 hearing order under this subsection shall be personally served on the
7 respondent by a law enforcement officer. A summons may be reissued if
8 service has not been made on the respondent by the fixed court date and
9 time.

10 (2) A temporary extreme risk protection order shall:

11 (a) Prohibit the respondent from purchasing, possessing, receiving, or having
12 in his or her custody or control a firearm, or attempting to purchase or
13 receive a firearm until a hearing on issuing an extreme risk protection
14 order can be held under Section 5 of this Act;

15 (b) Order the surrender of the respondent's firearms under Section 9 of this Act
16 until a hearing to determine whether to issue an extreme risk protection
17 order can be held under Section 5 of this Act; and

18 (c) Include:

19 1. A statement that the respondent shall not purchase, possess, receive,
20 or have in his or her custody or control, or attempt to purchase or
21 receive, a firearm while the order is in effect;

22 2. A description of the requirements for surrender of firearms under
23 Section 9 of this Act;

24 3. A statement of the grounds supporting the issuance of the order;

25 4. A notice of the hearing to determine whether to issue an extreme risk
26 protection order, including the address of the court and the date and
27 time when the hearing is scheduled;

- 1 5. A statement that the respondent may ask the court for an extension of
 2 time before the hearing to determine whether to issue an extreme risk
 3 protection order;
- 4 6. A statement that, whether the respondent attends the hearing or not,
 5 the court will rule on whether to convert the temporary order to an
 6 extreme risk protection order for a period not to exceed one (1) year,
 7 and that orders are renewable under Section 8 of this Act; and
- 8 7. A statement that the respondent may seek the advice of an attorney as
 9 to any matter connected with the order, and an attorney may be
 10 appointed for indigent respondents under Section 4 of this Act, with
 11 instructions on how the respondent can establish that he or she is an
 12 indigent person.

13 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
 14 READ AS FOLLOWS:

- 15 (1) Prior to or at a hearing for an extreme risk protection order, the court may obtain
 16 the respondent's criminal and protective order history. Any information obtained
 17 shall be provided to the petitioner and respondent in accordance with the Rules of
 18 Civil Procedure.
- 19 (2) The respondent may ask the court for an extension of time prior to the hearing to
 20 determine if an extreme risk protection order shall be issued.
- 21 (3) Prior to the hearing, the respondent may request that an attorney be appointed to
 22 appear with the respondent at the hearing and in any subsequent motions for
 23 termination. If the court determines pursuant to KRS Chapter 31 that the
 24 respondent is indigent, the court shall appoint counsel within forty-eight (48)
 25 hours to represent the indigent person. When it is necessary to appoint counsel,
 26 the court shall endeavor to appoint private counsel, if available, to represent
 27 respondents, from a list of attorneys who have volunteered to represent these

1 respondents. The attorney for the respondent shall receive a fee to be fixed by the
2 court, not to exceed five hundred dollars (\$500). However, if no other method of
3 appointing counsel for the respondent is available, the respondent shall be
4 represented by counsel from the Department of Public Advocacy pursuant to KRS
5 Chapter 31.

6 (4) (a) If the respondent is not present at the hearing ordered pursuant to Section 3
7 of this Act and has not been served, a previously issued temporary extreme
8 risk protection order shall remain in place, and the court shall direct the
9 issuance of a new summons for a hearing set not more than fourteen (14)
10 days in the future. If service has not been made on the respondent before
11 that hearing or a subsequent hearing, the temporary extreme risk protection
12 order shall remain in place, and the court shall continue the hearing and
13 issue a new summons with a new date and time for the hearing to occur,
14 which shall be within fourteen (14) days of the previously scheduled
15 hearing date. The court shall repeat the process of continuing the hearing
16 and reissuing a new summons until the respondent is served in advance of
17 the scheduled hearing. If service has not been made on the respondent at
18 least seventy-two (72) hours prior to the scheduled hearing, the court may
19 continue the hearing no more than fourteen (14) days in the future. In
20 issuing the summons, the court shall simultaneously transmit a copy of the
21 summons or notice of its issuance and provisions to the petitioner.

22 (b) The provisions of this section permitting the continuance of a temporary
23 extreme risk protection order shall be limited to six (6) months from the
24 issuance of the temporary extreme risk protection order. If the respondent
25 has not been served within that period, the order shall be rescinded without
26 prejudice. Prior to the expiration of the temporary extreme risk protection
27 order, the court shall provide notice to the petitioner stating that, if the

1 petitioner does not file a new petition, the order shall be rescinded without
2 prejudice.

3 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) When a hearing is ordered under Section 3 of this Act, the court shall consider
6 all admissible evidence presented by the petitioner and the respondent, and may
7 also consider other admissible evidence.

8 (2) Following a hearing ordered under Section 3 of this Act, if a court finds by clear
9 and convincing evidence that the respondent poses an immediate and present
10 danger of serious physical injury to self or others by purchasing, possessing,
11 receiving, or having in his or her custody or control a firearm, the court shall
12 issue an extreme risk protection order that:

13 (a) Prohibits the respondent from purchasing, possessing, receiving, or having
14 in his or her custody or control a firearm, or attempting to purchase or
15 receive a firearm from the date the order is issued until the order expires,
16 not to exceed one (1) year from the date of issue; and

17 (b) Orders the surrender of firearms under Section 9 of this Act until the order
18 expires.

19 (3) An extreme risk protection order shall be effective for a period of time fixed by
20 the court, not to exceed one (1) year, and may be reissued upon expiration
21 pursuant to Section 8 of this Act for subsequent periods of up to one (1) year
22 each.

23 (4) An extreme risk protection order shall include:

24 (a) A statement that the respondent shall not purchase, possess, receive, or have
25 in his or her custody or control, or attempt to purchase or receive, a firearm
26 while the order is in effect;

27 (b) A description of the requirements for surrender of firearms and the option

- 1 of transfer to a responsible party under Section 9 of this Act;
 2 (c) A statement of the grounds supporting the issuance of the order;
 3 (d) The date and time the order expires;
 4 (e) The address of the court that issued the order;
 5 (f) A statement that the respondent shall have the right to request a hearing to
 6 terminate the order every ninety (90) days during its effective period; and
 7 (g) A statement that the respondent may request that an attorney be appointed
 8 under Section 4 of this Act.

9 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
 10 READ AS FOLLOWS:

- 11 (1) An extreme risk protection order shall become effective and binding on the
 12 respondent when the respondent is given notice of the existence and terms of the
 13 order by a law enforcement officer, the court, or upon personal service of the
 14 order, whichever is earlier. A law enforcement officer or court giving notice of an
 15 unserved order shall make all reasonable efforts to arrange for the order's
 16 personal service upon the respondent. Once effective, a law enforcement officer
 17 or the court may enforce the order's terms and act immediately upon their
 18 violation.
- 19 (2) Costs, fees, or bond shall not be assessed against or required of a petitioner for
 20 any filing, hearing, service, or order authorized by or required to implement
 21 Sections 1 to 15 of this Act.
- 22 (3) Upon proper filing of a motion, either party may seek to terminate or renew an
 23 extreme risk protection order as provided in Section 8 of this Act.
- 24 (4) Testimony offered by a petitioner or a respondent in a hearing ordered pursuant
 25 to Section 3 of this Act shall not be admissible in any criminal proceeding except
 26 for purposes of impeachment.
- 27 (5) All health records and other health information that either party elects to provide

1 in a petition or considered as evidence in a proceeding under Sections 3 or 5 of
 2 this Act shall be protected from public disclosure to the extent they identify a
 3 respondent or petitioner, except that such information may be provided to law
 4 enforcement agencies as set forth in Section 7 of this Act. Aggregate statistical
 5 data about the number of extreme risk protection orders requested, issued,
 6 renewed, denied, dissolved, or terminated shall be made available by the
 7 Administrative Office of the Courts to the public upon request.

8 (6) If a petition made under Section 2 of this Act does not result in the issuance of an
 9 extreme risk protection order, the court in which the petition was heard shall
 10 order the expungement of the records of the case after thirty (30) days have
 11 elapsed since the case was dismissed, in accordance with KRS 431.076, unless the
 12 respondent requests in writing to preserve the record.

13 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
 14 READ AS FOLLOWS:

15 (1) Within twenty-four (24) hours of issuing, recognizing, renewing, dissolving, or
 16 terminating a summons or an extreme risk protection order under Sections 1 to
 17 15 of this Act, the court shall forward, by the most expedient means reasonably
 18 available, a copy of each to the appropriate agency designated for entry of orders
 19 of protection into the Law Information Network of Kentucky, to the agency
 20 assigned service, and to the Department of Kentucky State Police.

21 (2) Within twenty-four (24) hours of achieving service, a law enforcement officer
 22 who serves an extreme risk protection order shall cause a copy of each protection
 23 order issued under Sections 3 or 5 of this Act to be electronically forwarded to the
 24 appropriate agency designated for entry of orders of protection into the Law
 25 Information Network of Kentucky and to the Department of Kentucky State
 26 Police.

27 (3) (a) All forms, affidavits, and protection orders issued or filed pursuant to

1 Sections 1 to 15 of this Act which require entry into the Law Information
 2 Network of Kentucky shall be entered on forms prescribed by the
 3 Administrative Office of the Courts after consultation with the Justice and
 4 Public Safety Cabinet.

5 **(b) The information required to be submitted to the Law Information Network**
 6 **of Kentucky pursuant to this section shall include identifying information**
 7 **about the respondent and the date the order was issued, recognized,**
 8 **renewed, dissolved, or terminated. In the case of an extreme risk protection**
 9 **order, the court shall include the date the order is set to expire. The court**
 10 **shall also indicate whether the respondent to an extreme risk protection**
 11 **order was present in court to be advised of the contents of the order or if the**
 12 **respondent failed to appear. The respondent's presence in court shall**
 13 **constitute proof of service of notice of the terms of the order.**

14 **(4) The Department of Kentucky State Police shall immediately make information**
 15 **about an extreme risk protection order issued, renewed, or terminated pursuant**
 16 **to Sections 1 to 15 of this Act available to the National Instant Criminal**
 17 **Background Check System for the purposes of firearm purchaser background**
 18 **checks.**

19 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
 20 READ AS FOLLOWS:

21 **(1) (a) A respondent to an extreme risk protection order issued under Section 5 of**
 22 **this Act and effective for one hundred twenty (120) days or longer may**
 23 **submit to the issuing court a written request to terminate the order every**
 24 **ninety (90) days during the effective period of the order. The respondent**
 25 **may request a hearing on the request for termination.**

26 **(b) Notice of the request shall be served on the petitioner in accordance with**
 27 **the laws of this Commonwealth regarding service of process.**

- 1 (c) If the court orders a termination hearing, the hearing shall:
- 2 1. Occur within fourteen (14) days from the date of service of the request
- 3 upon the petitioner; and
- 4 2. Be heard by the issuing court sitting without a jury.
- 5 (d) The respondent seeking termination of the order shall have the burden of
- 6 proving by clear and convincing evidence that the respondent does not pose
- 7 an immediate and present danger of causing serious physical injury to self
- 8 or others by purchasing, possessing, receiving, or having in his or her
- 9 custody or control a firearm.
- 10 (e) If the judge finds after the hearing that the respondent has met his or her
- 11 burden, the court shall terminate the order.
- 12 (2) For extreme risk protection orders effective for more than ninety (90) days, the
- 13 issuing court shall notify the petitioner that the order is set to expire at least thirty
- 14 (30) days before expiration. The notice shall advise the petitioner of the
- 15 procedures for seeking a renewal of the order pursuant to this section.
- 16 (3) (a) A petitioner may request a renewal of an extreme risk protection order at
- 17 any time during the ninety (90) day period preceding the expiration of the
- 18 order.
- 19 (b) Renewal proceedings for an extreme risk protection order shall be heard by
- 20 a judge of the District Court which issued the existing order, and the
- 21 existing extreme risk protection order shall remain in effect until the court
- 22 holds the hearing.
- 23 (c) The court may, after notice and a hearing, renew an extreme risk protection
- 24 order issued under Section 5 of this Act for up to one (1) year after the prior
- 25 date of expiration if the court finds by clear and convincing evidence that
- 26 the respondent continues to pose an immediate and present danger of
- 27 causing serious physical injury to self or others by purchasing, possessing,

1 receiving, or having in his or her custody or control a firearm.

2 (d) In determining whether to renew an extreme risk protection order issued
3 under Section 5 of this Act, the court shall consider all relevant evidence
4 presented by the petitioner and the respondent, and may also consider other
5 relevant evidence.

6 (e) An extreme risk protection order renewed pursuant to this section shall be
7 subject to termination by further order of the court at a hearing held
8 pursuant to subsection (1) of this section or further renewed by order of the
9 court pursuant to this subsection.

10 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
11 READ AS FOLLOWS:

12 (1) Upon issuance of an extreme risk protection order, the court shall:

13 (a) Order the respondent to surrender to a local law enforcement agency all
14 firearms in the respondent's custody or control, or which the respondent
15 possesses; and

16 (b) Direct a law enforcement agency having jurisdiction over the respondent to
17 conduct a reasonable search of available records in order to:

18 1. Identify adults living in the same household as the respondent; and

19 2. Provide notice to those adults that the respondent is prohibited from
20 having firearms in his or her custody or control while the order is in
21 effect.

22 (2) (a) If an order becomes binding and effective upon a respondent after personal
23 service of the order by a law enforcement officer, the respondent shall
24 surrender all firearms to the control of the law enforcement officer serving
25 the order; or

26 (b) If an order becomes binding and effective upon a respondent after the
27 respondent is given notice of the existence and terms of the order by a law

1 enforcement officer or the court, the law enforcement officer or the court
2 shall inform the respondent of the time, place, and manner of the surrender
3 to local law enforcement.

4 (3) At the time of surrender, a law enforcement officer taking possession of a firearm
5 pursuant to an extreme risk protection order shall issue a receipt identifying all
6 firearms that have been surrendered and provide a copy of the receipt to the
7 respondent. The officer serving the order shall file the original receipt with the
8 court that issued the extreme risk protection order, and shall ensure that the law
9 enforcement agency retains a copy of the receipt.

10 (4) If a temporary order issued under Section 3 of this Act has been extended to an
11 extreme risk protection order under Section 5 of this Act, and firearms have been
12 surrendered to a local law enforcement agency, the respondent or the rightful
13 owner of the firearm, as applicable, may petition the issuing court to order the
14 law enforcement agency to:

15 (a) Transfer the firearm to a responsible party;

16 (b) Transfer the firearm to an individual who possesses a valid federal firearms
17 license issued under 18 U.S.C. sec. 923 for storage or an eventual lawful
18 sale whose terms are mutually agreed upon between the licensee and the
19 respondent or rightful owner, as applicable; or

20 (c) Transfer the firearm to the Department of Kentucky State Police under KRS
21 95.435, to be sold at public auction under KRS 16.220, with proceeds
22 returned to the respondent or the rightful owner of the firearm, as
23 applicable.

24 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
25 READ AS FOLLOWS:

26 (1) A court that has probable cause to believe a respondent to an extreme risk
27 protection order possesses, or has in his or her custody or control firearms that

1 he or she has failed to surrender pursuant to Sections 1 to 15 of this Act, or has
2 received or purchased firearms while subject to the order, shall issue a search
3 warrant describing the firearms and authorizing a search of any location where
4 the firearms are reasonably believed to be and order the seizure of any firearms
5 discovered pursuant to such search.

6 (2) Firearms seized under this subsection shall be processed in the same manner as
7 firearms surrendered under Section 9 of this Act.

8 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
9 READ AS FOLLOWS:

10 (1) (a) A law enforcement agency storing a firearm surrendered under Section 9 of
11 this Act or seized under Section 10 of this Act shall use reasonable care to
12 ensure that the firearm is not lost or damaged, and the law enforcement
13 agency is prohibited from permanently marking the firearm for
14 identification or other purposes.

15 (b) A law enforcement agency shall be liable for any damage to or loss of the
16 firearm that results from the law enforcement agency's negligence in the
17 storage or handling of the firearm.

18 (2) When an extreme risk protection order is terminated or expires, a law
19 enforcement agency holding any firearm that has been surrendered pursuant to
20 Section 9 of this Act or seized under Section 10 of this Act shall notify the
21 respondent that he or she may request the return of the firearm. A law
22 enforcement agency shall return any surrendered or seized firearm requested by
23 a respondent only after confirming, through a background check, that the
24 respondent is currently eligible to possess firearms.

25 (3) (a) Any firearm which was surrendered by a respondent pursuant to Section 9
26 of this Act and that remains unclaimed or has not been transferred by the
27 lawful owner one (1) year after any extreme risk protection order has

1 expired or terminated shall be treated as unclaimed property under KRS
 2 Chapter 393A.

3 (b) Any firearm which was seized under Section 10 of this Act and that remains
 4 unclaimed or has not been transferred by the lawful owner six (6) years
 5 after any extreme risk protection order has expired or terminated shall be
 6 treated as unclaimed property under KRS Chapter 393A.

7 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
 8 READ AS FOLLOWS:

9 (1) A person who knowingly files a petition for any extreme risk protection order,
 10 knowing the information in the petition to be materially false or with an intent to
 11 harass the respondent, is guilty of a Class A misdemeanor.

12 (2) A person who knowingly purchases, possesses, receives, or has in his or her
 13 custody or control a firearm with knowledge that he or she is prohibited from
 14 doing so by any extreme risk protection order:

15 (a) Is guilty of a Class A misdemeanor; and

16 (b) Shall be prohibited from purchasing, possessing, receiving, having in his or
 17 her custody or control, or attempting to purchase or receive, a firearm for a
 18 period of five (5) years from the date of conviction.

19 (3) If a respondent subject to an extreme risk protection order has transferred a
 20 firearm to a responsible party and the responsible party intentionally or wantonly
 21 allows the respondent access to any firearm, the responsible party is guilty of a
 22 Class A misdemeanor.

23 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
 24 READ AS FOLLOWS:

25 The Commonwealth of Kentucky shall recognize and enforce orders from other states
 26 that are substantially similar to temporary extreme risk protection orders or extreme
 27 risk protection orders, provided that:

1 (1) The order is filed with a court of competent jurisdiction within the
2 Commonwealth;

3 (2) The order is valid in the originating state at the time it is filed; and

4 (3) In the case of an order lasting more than fourteen (14) days, the respondent was
5 afforded opportunity for a hearing in the originating state prior to the order
6 being issued.

7 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
8 READ AS FOLLOWS:

9 Nothing in Sections 1 to 15 of this Act shall be construed to authorize a warrantless
10 search or seizure by a law enforcement officer if a warrant would otherwise be
11 required.

12 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
13 READ AS FOLLOWS:

14 Sections 1 to 15 of this Act shall not be construed to impose criminal or civil liability
15 on any person who chooses not to seek an extreme risk protection order.

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

18 (1) The department shall establish and maintain the Kentucky Voluntary Do Not Sell
19 Firearms List in the Commonwealth of Kentucky to prohibit the possession,
20 transportation, and sale of firearms to any person who voluntarily registers
21 himself or herself to be enrolled into the list. The department shall promulgate
22 administrative regulations and develop any policies necessary for the
23 implementation of this section.

24 (2) Any person eighteen (18) years of age or older may apply in writing to the
25 department to request voluntary enrollment into the Kentucky Voluntary Do Not
26 Sell Firearms List and, after being enrolled into the list, may apply in writing to
27 the department to request removal from the list.

- 1 (3) Any person requesting enrollment into or removal from the Kentucky Voluntary
2 No Sell Firearms List shall submit a photocopy of one (1) valid form of photo
3 identification issued by a governmental agency of the applicant's state of
4 residency or by the United States, Department of Defense or an official United
5 States passport to accompany the enrollment and removal forms. Enrollment and
6 removal requests may be submitted to the department by mail or in person at any
7 department office location.
- 8 (4) The application for enrollment into and removal from the list shall be on forms
9 prescribed by the department. The department shall make the forms available on
10 the department's Web site. The forms shall state that any person enrolled into the
11 Kentucky Voluntary Do Not Sell Firearms List shall not be removed from the list
12 until twenty-one (21) days after the department receives an application for
13 removal.
- 14 (5) Upon enrolling a person into the Kentucky Voluntary No Sell Firearms List, the
15 department shall forward a person's eligibility to purchase, possess, or transport
16 a firearm to the National Instant Criminal Background Check System. The
17 department shall notify the person by mail that he or she has been enrolled into
18 the Kentucky Voluntary No Sell Firearms List.
- 19 (6) Upon enrolling a person into the Kentucky Voluntary No Sell Firearms List, the
20 department shall revoke any existing license to carry concealed firearms held by
21 the person.
- 22 (7) The department shall not remove any person from the Kentucky Voluntary No
23 Sell Firearms List until twenty-one (21) days after receipt of the person's removal
24 request. Upon removal of a person's name from the list, the department shall
25 update the person's eligibility to purchase, possess, or transport a firearm to the
26 National Instant Criminal Background Check System and shall destroy all
27 records of enrollment into and request for removal from the list.

1 **(8) The department shall withhold from public disclosure all information regarding**
 2 **a request to be enrolled into or removed from the Kentucky Voluntary No Sell**
 3 **Firearms List and any other personal identifying information contained in or**
 4 **related to the list, except that the information may be disclosed to a law**
 5 **enforcement officer acting in the performance of his or her official duties or to**
 6 **the applicant with respect to his or her own information.**

7 ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO
 8 READ AS FOLLOWS:

9 **The following acts are prohibited:**

10 **(1) A person who intentionally discriminates against another person with respect to**
 11 **his or her health care services, employment, education, housing, insurance,**
 12 **governmental benefits, or contracting because of that person's present or past**
 13 **status on the Kentucky Voluntary No Sell Firearms List is guilty of a Class A**
 14 **misdemeanor.**

15 **(2) A person who knowingly makes any false statement to the department with the**
 16 **intent of enrolling or removing any other person into or from the Kentucky**
 17 **Voluntary No Sell Firearms List is guilty of a Class A misdemeanor.**

18 **(3) A person enrolled into the Kentucky Voluntary No Sell Firearms List who**
 19 **knowingly purchases, possesses, or transfers a firearm is guilty of a Class B**
 20 **misdemeanor.**

21 ➔Section 18. KRS 16.220 is amended to read as follows:

22 (1) Subject to the duty to return confiscated firearms to innocent owners pursuant to
 23 KRS 500.090, all firearms confiscated by the Department of Kentucky State Police
 24 and not retained for official use pursuant to KRS 500.090 shall be sold at public
 25 auction to federally licensed firearms dealers holding a license appropriate for the
 26 type of firearm sold. Any provision of KRS Chapter 45 or 45A relating to
 27 disposition of property to the contrary notwithstanding, the Department of Kentucky

1 State Police shall:

2 (a) Conduct any auction specified by this section;

3 (b) Retain for departmental use twenty percent (20%) of the gross proceeds from
4 any auction specified by this section; and

5 (c) Transfer remaining proceeds of the sale to the account of the Kentucky Office
6 of Homeland Security for use as provided in subsection (4) of this section.

7 (2) Prior to the sale of any firearm, the Department of Kentucky State Police shall make
8 an attempt to determine if the firearm to be sold has been stolen or otherwise
9 unlawfully obtained from an innocent owner and return the firearm to its lawful
10 innocent owner, unless that person is ineligible to purchase a firearm under federal
11 law.

12 (3) The Department of Kentucky State Police shall receive firearms and ammunition
13 confiscated by or abandoned to every law enforcement agency in Kentucky. The
14 department shall dispose of the firearms received in the manner specified in
15 subsection (1) of this section. However, firearms which are not retained for official
16 use, returned to an innocent lawful owner, or transferred to another government
17 agency or public museum shall be sold as provided in subsections (1) and (3) of this
18 section.

19 (4) *Except as provided in Section 9 of this Act,* the proceeds of firearms sales shall be
20 utilized by the Kentucky Office of Homeland Security to provide grants to city,
21 county, charter county, unified local government, urban-county government, and
22 consolidated local government police departments; university safety and security
23 departments organized pursuant to KRS 164.950; school districts that employ
24 special law enforcement officers as defined in KRS 61.900; and sheriff's
25 departments for the purchase of:

26 (a) Body armor for sworn peace officers of those departments and service
27 animals, as defined in KRS 525.010, of those departments;

- 1 (b) Firearms or ammunition;
- 2 (c) Electronic control devices, electronic control weapons, or electro-muscular
- 3 disruption technology; and
- 4 (d) Body-worn cameras.

5 In awarding grants under this section, the Kentucky Office of Homeland Security

6 shall give first priority to providing and replacing body armor and second priority to

7 providing firearms and ammunition, with residual funds available for the purchase

8 of body-worn cameras, electronic control devices, electronic control weapons, or

9 electro-muscular disruption technology. Body armor purchased by the department

10 receiving grant funds shall meet or exceed the standards issued by the National

11 Institute of Justice for body armor. No police or sheriff's department shall apply for

12 a grant to replace existing body armor unless that body armor has been in actual use

13 for a period of five (5) years or longer. Any department applying for grant funds for

14 body-worn cameras shall develop a policy for their use and shall submit that policy

15 with its application for the grant funds to the Office of Homeland Security as part of

16 the application process.

17 (5) The Department of Kentucky State Police may transfer a machine gun, short-

18 barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any

19 other weapon, or destructive device as defined by the National Firearms Act which

20 is subject to registration under the National Firearms Act and is not properly

21 registered in the national firearms transfer records for those types of weapons, to the

22 Bureau of Alcohol, Tobacco, and Firearms of the United States Department of

23 Justice, after a reasonable attempt has been made to transfer the firearm to an

24 eligible state or local law enforcement agency or to an eligible museum and no

25 eligible recipient will take the firearm or weapon. National Firearms Act firearms

26 and weapons which are properly registered and not returned to an innocent lawful

27 owner or retained for official use as provided in this section shall be sold to properly

1 licensed dealers under subsection (3) of this section.

2 ➔Section 19. KRS 237.110 is amended to read as follows:

- 3 (1) The Department of Kentucky State Police is authorized to issue and renew licenses
4 to carry concealed firearms or other deadly weapons, or a combination thereof, to
5 persons qualified as provided in this section.
- 6 (2) An original or renewal license issued pursuant to this section shall:
- 7 (a) Be valid throughout the Commonwealth and, except as provided in this
8 section or other specific section of the Kentucky Revised Statutes or federal
9 law, permit the holder of the license to carry firearms, ammunition, or other
10 deadly weapons, or a combination thereof, at any location in the
11 Commonwealth;
- 12 (b) Unless revoked or suspended as provided by law, be valid for a period of five
13 (5) years from the date of issuance;
- 14 (c) Authorize the holder of the license to carry a concealed firearm or other
15 deadly weapon, or a combination thereof, on or about his or her person; and
- 16 (d) Authorize the holder of the license to carry ammunition for a firearm on or
17 about his or her person.
- 18 (3) Prior to the issuance of an original or renewal license to carry a concealed deadly
19 weapon, the Department of Kentucky State Police, upon receipt of a completed
20 application, applicable fees, and any documentation required by this section or
21 administrative regulation promulgated by the Department of Kentucky State Police,
22 shall conduct a background check to ascertain whether the applicant is eligible
23 under 18 U.S.C. sec. 922(g) and (n), any other applicable federal law, and state law
24 to purchase, receive, or possess a firearm or ammunition, or both. The background
25 check shall include:
- 26 (a) A state records check covering the items specified in this subsection, together
27 with any other requirements of this section;

- 1 (b) A federal records check, which shall include a National Instant Criminal
2 Background Check System (NICS) check;
- 3 (c) A federal Immigration Alien Query if the person is an alien who has been
4 lawfully admitted to the United States by the United States government or an
5 agency thereof; and
- 6 (d) In addition to the Immigration Alien Query, if the applicant has not been
7 lawfully admitted to the United States under permanent resident status, the
8 Department of Kentucky State Police shall, if a doubt exists relating to an
9 alien's eligibility to purchase a firearm, consult with the United States
10 Department of Homeland Security, United States Department of Justice,
11 United States Department of State, or other federal agency to confirm whether
12 the alien is eligible to purchase a firearm in the United States, bring a firearm
13 into the United States, or possess a firearm in the United States under federal
14 law.
- 15 (4) The Department of Kentucky State Police shall issue an original or renewal license
16 if the applicant:
- 17 (a) Is not prohibited from the purchase, receipt, or possession of firearms,
18 ammunition, or both pursuant to 18 U.S.C. 922(g), 18 U.S.C. 922(n), or
19 applicable federal or state law;
- 20 (b) 1. Is a citizen of the United States who is a resident of this Commonwealth;
21 2. Is a citizen of the United States who is a member of the Armed Forces of
22 the United States who is on active duty, who is at the time of application
23 assigned to a military posting in Kentucky;
- 24 3. Is lawfully admitted to the United States by the United States
25 government or an agency thereof, is permitted by federal law to purchase
26 a firearm, and is a resident of this Commonwealth; or
- 27 4. Is lawfully admitted to the United States by the United States

- 1 government or an agency thereof, is permitted by federal law to purchase
2 a firearm, is, at the time of the application, assigned to a military posting
3 in Kentucky, and has been assigned to a posting in the Commonwealth;
- 4 (c) Is twenty-one (21) years of age or older;
- 5 (d) Has not been committed to a state or federal facility for the abuse of a
6 controlled substance or been convicted of a misdemeanor violation of KRS
7 Chapter 218A or similar laws of any other state relating to controlled
8 substances, within a three (3) year period immediately preceding the date on
9 which the application is submitted;
- 10 (e) Does not chronically and habitually use alcoholic beverages as evidenced by
11 the applicant having two (2) or more convictions for violating KRS 189A.010
12 within the three (3) years immediately preceding the date on which the
13 application is submitted, or having been committed as an alcoholic pursuant to
14 KRS Chapter 222 or similar laws of another state within the three (3) year
15 period immediately preceding the date on which the application is submitted;
- 16 (f) Does not owe a child support arrearage which equals or exceeds the
17 cumulative amount which would be owed after one (1) year of nonpayment, if
18 the Department of Kentucky State Police has been notified of the arrearage by
19 the Cabinet for Health and Family Services;
- 20 (g) Has complied with any subpoena or warrant relating to child support or
21 paternity proceedings. If the Department of Kentucky State Police has not
22 been notified by the Cabinet for Health and Family Services that the applicant
23 has failed to meet this requirement, the Department of Kentucky State Police
24 shall assume that paternity and child support proceedings are not an issue;
- 25 (h) Has not been convicted of a violation of KRS 508.030 or 508.080 within the
26 three (3) years immediately preceding the date on which the application is
27 submitted. The commissioner of the Department of Kentucky State Police

1 may waive this requirement upon good cause shown and a determination that
2 the applicant is not a danger and that a waiver would not violate federal law;

3 (i) Demonstrates competence with a firearm by successful completion of a
4 firearms safety or training course that is conducted by a firearms instructor
5 who is certified by a national organization with membership open to residents
6 of any state or territory of the United States, which was created to promote
7 firearms education, safety, and the profession of firearms use and training, and
8 to foster professional behavior in its members. The organization shall require
9 members to adhere to its own code of ethics and conduct a program which
10 certifies firearms instructors and includes the use of written tests, in person
11 instruction, and a component of live-fire training. These national
12 organizations shall include but are not limited to the National Rifle
13 Association, the United States Concealed Carry Association, and the National
14 Shooting Sports Foundation. The training requirement may also be fulfilled
15 through any firearms safety course offered or approved by the Department of
16 Criminal Justice Training. The firearms safety course offered or approved by
17 the Department of Criminal Justice Training shall:

- 18 1. Be not more than eight (8) hours in length;
- 19 2. Include instruction on handguns, the safe use of handguns, the care and
20 cleaning of handguns, and handgun marksmanship principles;
- 21 3. Include actual range firing of a handgun in a safe manner, and the firing
22 of not more than twenty (20) rounds at a full-size silhouette target,
23 during which firing, not less than eleven (11) rounds must hit the
24 silhouette portion of the target; and
- 25 4. Include information on and a copy of laws relating to possession and
26 carrying of firearms, as set forth in KRS Chapters 237 and 527, and the
27 laws relating to the use of force, as set forth in KRS Chapter 503;~~and~~

1 (j) Demonstrates knowledge of the law regarding the justifiable use of force by
2 including with the application a copy of the concealed carry deadly weapons
3 legal handout made available by the Department of Criminal Justice Training
4 and a signed statement that indicates that applicant has read and understands
5 the handout;[-]

6 **(k) Is not prohibited from possessing a firearm under Sections 1 to 15 of this**
7 **Act; and**

8 **(l) Is not enrolled into the Kentucky Voluntary Do Not Sell Firearms List**
9 **established pursuant to Section 16 of this Act.**

10 (5) (a) A legible photocopy or electronic copy of a certificate of completion issued by
11 a firearms instructor certified by a national organization or the Department of
12 Criminal Justice Training shall constitute evidence of qualification under
13 subsection (4)(i) of this section.

14 (b) Persons qualifying under subsection (6)(d) of this section may submit with
15 their application:

16 1. At least one (1) of the following paper or electronic forms or their
17 successor forms showing evidence of handgun training or handgun
18 qualifications:

19 a. Department of Defense Form DD 2586;

20 b. Department of Defense Form DD 214;

21 c. Coast Guard Form CG 3029;

22 d. Department of the Army Form DA 88-R;

23 e. Department of the Army Form DA 5704-R;

24 f. Department of the Navy Form OPNAV 3591-1; or

25 g. Department of the Air Force Form AF 522; or

26 2. a. Documentary evidence of an honorable discharge; and

27 b. A notarized affidavit on a form provided by the Department of

1 Kentucky State Police, signed under penalty of perjury, stating the
2 person has met the training requirements of subsection (6)(d) of
3 this section.

4 (6) (a) Peace officers who are currently certified as peace officers by the Kentucky
5 Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace
6 officers who are retired and are members of the Kentucky Employees
7 Retirement System, State Police Retirement System, or County Employees
8 Retirement System or other retirement system operated by or for a city,
9 county, or urban-county in Kentucky shall be deemed to have met the training
10 requirement.

11 (b) Current and retired peace officers of the following federal agencies shall be
12 deemed to have met the training requirement:

13 1. Any peace officer employed by a federal agency specified in KRS
14 61.365;

15 2. Any peace officer employed by a federal civilian law enforcement
16 agency not specified above who has successfully completed the basic
17 law enforcement training course required by that agency;

18 3. Any military peace officer of the United States Army, Navy, Marine
19 Corps, or Air Force, or a reserve component thereof, or of the Army
20 National Guard or Air National Guard who has successfully completed
21 the military law enforcement training course required by that branch of
22 the military;

23 4. Any member of the United States Coast Guard serving in a peace officer
24 role who has successfully completed the law enforcement training
25 course specified by the United States Coast Guard.

26 (c) Corrections officers who are currently employed by a consolidated local
27 government, an urban-county government, or the Department of Corrections

1 who have successfully completed a basic firearms training course required for
2 their employment, and corrections officers who were formerly employed by a
3 consolidated local government, an urban-county government, or the
4 Department of Corrections who are retired, and who successfully completed a
5 basic firearms training course required for their employment, and are members
6 of a state-administered retirement system or other retirement system operated
7 by or for a city, county, or urban-county government in Kentucky shall be
8 deemed to have met the training requirement.

9 (d) Active or honorably discharged service members in the United States Army,
10 Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component
11 thereof, or of the Army National Guard or Air National Guard shall be
12 deemed to have met the training requirement if these persons:

- 13 1. Successfully completed handgun training which was conducted by the
14 United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or
15 a reserve component thereof, or of the Army National Guard or Air
16 National Guard; or
- 17 2. Successfully completed handgun qualification within the United States
18 Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve
19 component thereof, or of the Army Guard or Air Force National Guard.

- 20 (7) (a) 1. A paper application for a license, or renewal of a license, to carry a
21 concealed deadly weapon shall be obtained from and submitted to the
22 office of the sheriff in the county in which the person resides.
- 23 2. An applicant, in lieu of a paper application, may submit an electronic
24 application for a license, or renewal of a license, to carry a concealed
25 deadly weapon to the Department of Kentucky State Police.
 - 26 3. Persons qualifying under subsection (6)(d) of this section shall be
27 supplied the information in subsection (4)(i)4. of this section upon

- 1 obtaining an application.
- 2 (b) 1. The completed paper application and any documentation required by this
- 3 section plus an application fee or renewal fee, as appropriate, of sixty
- 4 dollars (\$60) shall be presented to the office of the sheriff of the county
- 5 in which the applicant resides.
- 6 2. The sheriff shall transmit the paper application and accompanying
- 7 material to the Department of Kentucky State Police within five (5)
- 8 working days.
- 9 3. Twenty dollars (\$20) of the paper application fee shall be retained by the
- 10 office of the sheriff for official expenses of the office. Twenty dollars
- 11 (\$20) shall be sent to the Department of Kentucky State Police with the
- 12 application. Ten dollars (\$10) shall be transmitted by the sheriff to the
- 13 Administrative Office of the Courts to fund background checks for
- 14 youth leaders, and ten dollars (\$10) shall be transmitted to the
- 15 Administrative Office of the Courts to fund background checks for
- 16 applicants for concealed weapons.
- 17 (c) 1. A completed electronic application submitted in lieu of a paper
- 18 application, any documentation required by this section, and an
- 19 application fee or renewal fee, as appropriate, of seventy dollars (\$70)
- 20 shall be presented to the Department of Kentucky State Police.
- 21 2. If an electronic application is submitted in lieu of a paper application,
- 22 thirty dollars (\$30) of the electronic application fee shall be retained by
- 23 the Department of Kentucky State Police. Twenty dollars (\$20) shall be
- 24 sent to the office of the sheriff of the applicant's county of residence for
- 25 official expenses of the office. Ten dollars (\$10) shall be transmitted to
- 26 the Administrative Office of the Courts to fund background checks for
- 27 youth leaders, and ten dollars (\$10) shall be transmitted to the

1 Administrative Office of the Courts to fund background checks for
2 applicants for concealed weapon carry permits.

3 (d) A full-time or part-time peace officer who is currently certified as a peace
4 officer by the Kentucky Law Enforcement Council and who is authorized by
5 his or her employer or government authority to carry a concealed deadly
6 weapon at all times and all locations within the Commonwealth pursuant to
7 KRS 527.020, or a retired peace officer who is a member of the Kentucky
8 Employees Retirement System, State Police Retirement System, County
9 Employees Retirement System, or other retirement system operated by or for a
10 city, county, or urban-county government in Kentucky, shall be exempt from
11 paying the paper or electronic application or renewal fees.

12 (e) The application, whether paper or electronic, shall be completed, under oath,
13 on a form or in a manner promulgated by the Department of Kentucky State
14 Police by administrative regulation which shall include:

15 1. a. The name, address, place and date of birth, citizenship, gender,
16 Social Security number of the applicant; and

17 b. If not a citizen of the United States, alien registration number if
18 applicable, passport number, visa number, mother's maiden name,
19 and other information necessary to determine the immigration
20 status and eligibility to purchase a firearm under federal law of a
21 person who is not a citizen of the United States;

22 2. A statement that, to the best of his or her knowledge, the applicant is in
23 compliance with criteria contained within subsections (3) and (4) of this
24 section;

25 3. A statement that the applicant, if qualifying under subsection (6)(c) of
26 this section, has provided:

27 a. At least one (1) of the forms listed in subsection (5) of this section;

1 concerning his or her immigration status and his or her United States
2 government issued:

- 3 1. Permanent Resident Card I-551 or its equivalent successor
4 identification;
- 5 2. Other United States government issued evidence of lawful admission to
6 the United States which includes the category of admission, if admission
7 has not been granted as a permanent resident; and
- 8 3. Evidence of compliance with the provisions of 18 U.S.C. sec. 922(g)(5),
9 18 U.S.C. sec. 922(d)(5), or 18 U.S.C. sec. 922(y)(2), and 27 C.F.R. Part
10 178, including, as appropriate, but not limited to evidence of ninety (90)
11 day residence in the Commonwealth, a valid current Kentucky hunting
12 license if claiming exemption as a hunter, or other evidence of eligibility
13 to purchase a firearm by an alien which is required by federal law or
14 regulation.

15 If an applicant presents identification specified in this paragraph, the sheriff
16 shall examine the identification, may record information from the
17 identification presented, and shall return the identification to the applicant.

18 (9) The Department of Kentucky State Police shall, within sixty (60) days after the date
19 of receipt of the items listed in subsection (8) of this section if the applicant
20 submitted a paper application, or within fifteen (15) business days after the date of
21 receipt of the items listed in subsection (8) of this section if the applicant applied
22 electronically, either:

- 23 (a) Issue the license; or
- 24 (b) Deny the application based solely on the grounds that the applicant fails to
25 qualify under the criteria listed in subsection (3) or (4) of this section. If the
26 Department of Kentucky State Police denies the application, it shall notify the
27 applicant in writing, stating the grounds for denial and informing the applicant

1 of a right to submit, within thirty (30) days, any additional documentation
2 relating to the grounds of denial. Upon receiving any additional
3 documentation, the Department of Kentucky State Police shall reconsider its
4 decision and inform the applicant within twenty (20) days of the result of the
5 reconsideration. The applicant shall further be informed of the right to seek de
6 novo review of the denial in the District Court of his or her place of residence
7 within ninety (90) days from the date of the letter advising the applicant of the
8 denial.

9 (10) The Department of Kentucky State Police shall maintain an automated listing of
10 license holders and pertinent information, and this information shall be available
11 upon request, at all times to all Kentucky, federal, and other states' law enforcement
12 agencies. A request for the entire list of licensees, or for all licensees in a
13 geographic area, shall be denied. Only requests relating to a named licensee shall be
14 honored or available to law enforcement agencies. Information on applications for
15 licenses, names and addresses, or other identifying information relating to license
16 holders shall be confidential and shall not be made available except to law
17 enforcement agencies. No request for lists of local or statewide permit holders shall
18 be made to any state or local law enforcement agency, peace officer, or other agency
19 of government other than the Department of Kentucky State Police, and no state or
20 local law enforcement agency, peace officer, or agency of government, other than
21 the Department of Kentucky State Police, shall provide any information to any
22 requester not entitled to it by law.

23 (11) Within thirty (30) days after the changing of a permanent address, or within thirty
24 (30) days after the loss, theft, or destruction of a license, the licensee shall notify the
25 Department of Kentucky State Police of the loss, theft, or destruction. Failure to
26 notify the Department of Kentucky State Police shall constitute a noncriminal
27 violation with a penalty of twenty-five dollars (\$25) payable to the clerk of the

1 District Court. No court costs shall be assessed for a violation of this subsection.
2 When a licensee makes application to change his or her residence address or other
3 information on the license, neither the sheriff nor the Department of Kentucky State
4 Police shall require a surrender of the license until a new license is in the office of
5 the applicable sheriff and available for issuance. Upon the issuance of a new
6 license, the old license shall be destroyed by the sheriff.

7 (12) If a license is lost, stolen, or destroyed, the license shall be automatically invalid,
8 and the person to whom the same was issued may, upon payment of fifteen dollars
9 (\$15) for a paper request, or twenty-five dollars (\$25) for an electronic request
10 submitted in lieu of a paper request, to the Department of Kentucky State Police,
11 obtain a duplicate, upon furnishing a notarized statement to the Department of
12 Kentucky State Police that the license has been lost, stolen, or destroyed.

13 (13) (a) The commissioner of the Department of Kentucky State Police, or his or her
14 designee in writing, shall revoke the license of any person who becomes
15 permanently ineligible to be issued a license or have a license renewed under
16 the criteria set forth in this section.

17 (b) The commissioner of the Department of Kentucky State Police, or his or her
18 designee in writing, shall suspend the license of any person who becomes
19 temporarily ineligible to be issued a license or have a license renewed under
20 the criteria set forth in this section. The license shall remain suspended until
21 the person is again eligible for the issuance or renewal of a license.

22 (c) Upon the suspension or revocation of a license, the commissioner of the
23 Department of Kentucky State Police, or his or her designee in writing, shall:

- 24 1. Order any peace officer to seize the license from the person whose
25 license was suspended or revoked; or
- 26 2. Direct the person whose license was suspended or revoked to surrender
27 the license to the sheriff of the person's county of residence within two

- 1 (2) business days of the receipt of the notice.
- 2 (d) If the person whose license was suspended or revoked desires a hearing on the
3 matter, the person shall surrender the license as provided in paragraph (c)2. of
4 this subsection and petition the commissioner of the Department of Kentucky
5 State Police to hold a hearing on the issue of suspension or revocation of the
6 license.
- 7 (e) Upon receipt of the petition, the commissioner of the Department of Kentucky
8 State Police shall cause a hearing to be held in accordance with KRS Chapter
9 13B on the suspension or revocation of the license. If the license has not been
10 surrendered, no hearing shall be scheduled or held.
- 11 (f) If the hearing officer determines that the licensee's license was wrongly
12 suspended or revoked, the hearing officer shall order the commissioner of the
13 Department of Kentucky State Police to return the license and abrogate the
14 suspension or revocation of the license.
- 15 (g) Any party may appeal a decision pursuant to this subsection to the District
16 Court in the licensee's county of residence in the same manner as for the
17 denial of a license.
- 18 (h) If the license is not surrendered as ordered, the commissioner of the
19 Department of Kentucky State Police shall order a peace officer to seize the
20 license and deliver it to the commissioner.
- 21 (i) Failure to surrender a suspended or revoked license as ordered is a Class A
22 misdemeanor.
- 23 (j) The provisions of this subsection relating to surrender of a license shall not
24 apply if a court of competent jurisdiction has enjoined its surrender.
- 25 (k) When a domestic violence order or emergency protective order is issued
26 pursuant to the provisions of KRS Chapter 403 against a person holding a
27 license issued under this section, the holder of the permit shall surrender the

1 license to the court or to the officer serving the order. The officer to whom the
2 license is surrendered shall forthwith transmit the license to the court issuing
3 the order. The license shall be suspended until the order is terminated, or until
4 the judge who issued the order terminates the suspension prior to the
5 termination of the underlying domestic violence order or emergency protective
6 order, in writing and by return of the license, upon proper motion by the
7 license holder. Subject to the same conditions as above, a peace officer against
8 whom an emergency protective order or domestic violence order has been
9 issued shall not be permitted to carry a concealed deadly weapon when not on
10 duty, the provisions of KRS 527.020 to the contrary notwithstanding.

11 (14) (a) Not less than one hundred twenty (120) days prior to the expiration date of the
12 license, the Department of Kentucky State Police shall mail to each licensee a
13 written notice of the expiration and a renewal form prescribed by the
14 Department of Kentucky State Police. The outside of the envelope containing
15 the license renewal notice shall bear only the name and address of the
16 applicant. No other information relating to the applicant shall appear on the
17 outside of the envelope sent to the applicant. The licensee may renew his or
18 her license on or before the expiration date by filing with the sheriff of his or
19 her county of residence the paper renewal form, or by filing with the
20 Department of Kentucky State Police an electronic renewal form in lieu of a
21 paper renewal form, stating that the licensee remains qualified pursuant to the
22 criteria specified in subsections (3) and (4) of this section, and the required
23 renewal fee set forth in subsection (7) of this section. The sheriff shall issue to
24 the applicant a receipt for the paper application for renewal of the license and
25 shall date the receipt. The Department of Kentucky State Police shall issue to
26 the applicant a receipt for an electronic application for renewal of the license
27 submitted in lieu of a paper application for renewal and shall date the receipt.

- 1 (b) A license which has expired shall be void and shall not be valid for any
2 purpose other than surrender to the sheriff in exchange for a renewal license.
- 3 (c) The license shall be renewed to a qualified applicant upon receipt of the
4 completed renewal application, records check as specified in subsection (3) of
5 this section, determination that the renewal applicant is not ineligible for a
6 license as specified in subsection (4), and appropriate payment of fees. Upon
7 the issuance of a new license, the old license shall be destroyed by the sheriff.
8 A licensee who fails to file a renewal application on or before its expiration
9 date may renew his or her license by paying, in addition to the license fees, a
10 late fee of fifteen dollars (\$15). No license shall be renewed six (6) months or
11 more after its expiration date, and the license shall be deemed to be
12 permanently expired six (6) months after its expiration date. A person whose
13 license has permanently expired may reapply for licensure pursuant to
14 subsections (7), (8), and (9) of this section.
- 15 (15) The licensee shall carry the license at all times the licensee is carrying a concealed
16 firearm or other deadly weapon and shall display the license upon request of a law
17 enforcement officer. Violation of the provisions of this subsection shall constitute a
18 noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the
19 clerk of the District Court, but no court costs shall be assessed.
- 20 (16) Except as provided in KRS 527.020, no license issued pursuant to this section shall
21 authorize any person to carry a concealed firearm into:
- 22 (a) Any police station or sheriff's office;
- 23 (b) Any detention facility, prison, or jail;
- 24 (c) Any courthouse, solely occupied by the Court of Justice courtroom, or court
25 proceeding;
- 26 (d) Any meeting of the governing body of a county, municipality, or special
27 district; or any meeting of the General Assembly or a committee of the

- 1 General Assembly, except that nothing in this section shall preclude a member
2 of the body, holding a concealed deadly weapon license, from carrying a
3 concealed deadly weapon at a meeting of the body of which he or she is a
4 member;
- 5 (e) Any portion of an establishment licensed to dispense beer or alcoholic
6 beverages for consumption on the premises, which portion of the
7 establishment is primarily devoted to that purpose;
- 8 (f) Any elementary or secondary school facility without the consent of school
9 authorities as provided in KRS 527.070, any child-caring facility as defined in
10 KRS 199.011, any day-care center as defined in KRS 199.894, or any certified
11 family child-care home as defined in KRS 199.8982, except however, any
12 owner of a certified child-care home may carry a concealed firearm into the
13 owner's residence used as a certified child-care home;
- 14 (g) An area of an airport to which access is controlled by the inspection of
15 persons and property; or
- 16 (h) Any place where the carrying of firearms is prohibited by federal law.
- 17 (17) The owner, business or commercial lessee, or manager of a private business
18 enterprise, day-care center as defined in KRS 199.894 or certified or licensed family
19 child-care home as defined in KRS 199.8982, or a health-care facility licensed
20 under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit
21 persons holding concealed deadly weapon licenses from carrying concealed deadly
22 weapons on the premises and may prohibit employees, not authorized by the
23 employer, holding concealed deadly weapons licenses from carrying concealed
24 deadly weapons on the property of the employer. If the building or the premises are
25 open to the public, the employer or business enterprise shall post signs on or about
26 the premises if carrying concealed weapons is prohibited. Possession of weapons, or
27 ammunition, or both in a vehicle on the premises shall not be a criminal offense so

1 long as the weapons, or ammunition, or both are not removed from the vehicle or
2 brandished while the vehicle is on the premises. A private but not a public employer
3 may prohibit employees or other persons holding a concealed deadly weapons
4 license from carrying concealed deadly weapons, or ammunition, or both in vehicles
5 owned by the employer, but may not prohibit employees or other persons holding a
6 concealed deadly weapons license from carrying concealed deadly weapons, or
7 ammunition, or both in vehicles owned by the employee, except that the Justice and
8 Public Safety Cabinet may prohibit an employee from carrying any weapons, or
9 ammunition, or both other than the weapons, or ammunition, or both issued or
10 authorized to be used by the employee of the cabinet, in a vehicle while transporting
11 persons under the employee's supervision or jurisdiction. Carrying of a concealed
12 weapon, or ammunition, or both in a location specified in this subsection by a
13 license holder shall not be a criminal act but may subject the person to denial from
14 the premises or removal from the premises, and, if an employee of an employer,
15 disciplinary measures by the employer.

16 (18) All moneys collected by the Department of Kentucky State Police pursuant to this
17 section shall be used to administer the provisions of this section and KRS 237.138
18 to 237.142. By March 1 of each year, the Department of Kentucky State Police and
19 the Administrative Office of the Courts shall submit reports to the Governor, the
20 President of the Senate, and the Speaker of the House of Representatives, indicating
21 the amounts of money collected and the expenditures related to this section, KRS
22 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070, and the
23 administration of the provisions of this section, KRS 237.138 to 237.142, and KRS
24 237.115, 244.125, 527.020, and 527.070.

25 (19) The General Assembly finds as a matter of public policy that it is necessary to
26 provide statewide uniform standards for issuing licenses to carry concealed firearms
27 and to occupy the field of regulation of the bearing of concealed firearms to ensure

1 that no person who qualifies under the provisions of this section is denied his rights.
2 The General Assembly does not delegate to the Department of Kentucky State
3 Police the authority to regulate or restrict the issuing of licenses provided for in this
4 section beyond those provisions contained in this section. This section shall be
5 liberally construed to carry out the constitutional right to bear arms for self-defense.

6 (20) (a) A person who is not a resident of Kentucky and who has a valid license issued
7 by another state of the United States to carry a concealed deadly weapon in
8 that state may, subject to provisions of Kentucky law, carry a concealed
9 deadly weapon in Kentucky, and his or her license shall be considered as valid
10 in Kentucky.

11 (b) If a person with a valid license to carry a concealed deadly weapon issued
12 from another state that has entered into a reciprocity agreement with the
13 Department of Kentucky State Police becomes a resident of Kentucky, the
14 license issued by the other state shall be considered as valid for the first one
15 hundred twenty (120) days of the person's residence in Kentucky, if within
16 sixty (60) days of moving to Kentucky, the person completes a form
17 promulgated by the Department of Kentucky State Police which shall include:

18 1. A signed and notarized statement averring that to the best of his or her
19 knowledge the person's license to carry a concealed deadly weapon is
20 valid and in compliance with applicable out-of-state law, and has not
21 been revoked or suspended for any reason except for valid forfeiture due
22 to departure from the issuing state;

23 2. The person's name, date of birth, citizenship, gender, Social Security
24 number if applicable, proof that he or she is a citizen of the United
25 States, a permanent resident of the United States, or otherwise lawfully
26 present in the United States, former out-of-state address, current address
27 within the state of Kentucky, date on which Kentucky residence began,

- 1 state which issued the concealed carry license, the issuing state's
2 concealed carry license number, and the state of issuance of license; and
- 3 3. A photocopy of the person's out-of-state license to carry a concealed
4 deadly weapon.
- 5 (c) Within sixty (60) days of moving to Kentucky, the person shall deliver the
6 form and accompanying documents by registered or certified mail, return
7 receipt requested, to the address indicated on the form provided by the
8 Department of Kentucky State Police pursuant to this subsection.
- 9 (d) The out-of-state concealed carry license shall become invalid in Kentucky
10 upon the earlier of:
- 11 1. The out-of-state person having resided in Kentucky for more than one
12 hundred twenty (120) days; or
- 13 2. The person being issued a Kentucky concealed deadly weapon license
14 pursuant to this section.
- 15 (e) The Department of Kentucky State Police shall, not later than thirty (30) days
16 after July 15, 1998, and not less than once every twelve (12) months
17 thereafter, make written inquiry of the concealed deadly weapon carrying
18 licensing authorities in each other state as to whether a Kentucky resident may
19 carry a concealed deadly weapon in their state based upon having a valid
20 Kentucky concealed deadly weapon license, or whether a Kentucky resident
21 may apply for a concealed deadly weapon carrying license in that state based
22 upon having a valid Kentucky concealed deadly weapon license. The
23 Department of Kentucky State Police shall attempt to secure from each other
24 state permission for Kentucky residents who hold a valid Kentucky concealed
25 deadly weapon license to carry concealed deadly weapons in that state, either
26 on the basis of the Kentucky license or on the basis that the Kentucky license
27 is sufficient to permit the issuance of a similar license by the other state. The

1 Department of Kentucky State Police shall enter into a written reciprocity
2 agreement with the appropriate agency in each state that agrees to permit
3 Kentucky residents to carry concealed deadly weapons in the other state on the
4 basis of a Kentucky-issued concealed deadly weapon license or that will issue
5 a license to carry concealed deadly weapons in the other state based upon a
6 Kentucky concealed deadly weapon license. If a reciprocity agreement is
7 reached, the requirement to recontact the other state each twelve (12) months
8 shall be eliminated as long as the reciprocity agreement is in force. The
9 information shall be a public record and shall be available to individual
10 requesters free of charge for the first copy and at the normal rate for open
11 records requests for additional copies.

12 (21) By March 1 of each year, the Department of Kentucky State Police shall submit a
13 statistical report to the Governor, the President of the Senate, and the Speaker of the
14 House of Representatives, indicating the number of licenses issued, revoked,
15 suspended, and denied since the previous report and in total and also the number of
16 licenses currently valid. The report shall also include the number of arrests,
17 convictions, and types of crimes committed since the previous report by individuals
18 licensed to carry concealed weapons.

19 (22) The following provisions shall apply to concealed deadly weapon training classes
20 conducted by the Department of Criminal Justice Training or any other agency
21 pursuant to this section:

22 (a) No concealed deadly weapon instructor trainer shall have his or her
23 certification as a concealed deadly weapon instructor trainer reduced to that of
24 instructor or revoked except after a hearing conducted pursuant to KRS
25 Chapter 13B in which the instructor is found to have committed an act in
26 violation of the applicable statutes or administrative regulations;

27 (b) No concealed deadly weapon instructor shall have his or her certification as a

- 1 concealed deadly weapon instructor license suspended or revoked except after
2 a hearing conducted pursuant to KRS Chapter 13B in which the instructor is
3 found to have committed an act in violation of the applicable statutes or
4 administrative regulations;
- 5 (c) The department shall not require prior notification that an applicant class or
6 instructor class will be conducted by a certified instructor or instructor trainer;
- 7 (d) Each concealed deadly weapon instructor or instructor trainer who teaches a
8 concealed deadly weapon applicant or concealed deadly weapon instructor
9 class shall supply the Department of Criminal Justice Training with a class
10 roster indicating which students enrolled and successfully completed the class,
11 and which contains the name and address of each student, within five (5)
12 working days of the completion of the class. The information may be sent by
13 mail, facsimile, e-mail, or other method which will result in the receipt of or
14 production of a hard copy of the information. The postmark, facsimile date, or
15 e-mail date shall be considered as the date on which the notice was sent.
16 Concealed deadly weapon class applicant, instructor, and instructor trainer
17 information and records shall be confidential. The department may release to
18 any person or organization the name, address, and telephone number of a
19 concealed deadly weapon instructor or instructor trainer if that instructor or
20 instructor trainer authorizes the release of the information in writing. The
21 department shall include on any application for an instructor or instructor
22 trainer certification a statement that the applicant either does or does not
23 desire the applicant's name, address, and telephone number to be made public;
- 24 (e) An instructor trainer who assists in the conduct of a concealed deadly weapon
25 instructor class or concealed deadly weapon applicant class for more than two
26 (2) hours shall be considered as to have taught a class for the purpose of
27 maintaining his or her certification. All class record forms shall include spaces

1 for assistant instructors to sign and certify that they have assisted in the
2 conduct of a concealed deadly weapon instructor or concealed deadly weapon
3 class;

4 (f) An instructor who assists in the conduct of a concealed deadly weapon
5 applicant class for more than two (2) hours shall be considered as to have
6 taught a class for the purpose of maintaining his or her license. All class
7 record forms shall include spaces for assistant instructors to sign and certify
8 that they have assisted in the conduct of a concealed deadly weapon class;

9 (g) If the Department of Criminal Justice Training believes that a firearms
10 instructor trainer or certified firearms instructor has not in fact complied with
11 the requirements for teaching a certified firearms instructor or applicant class
12 by not teaching the class as specified in KRS 237.126, or who has taught an
13 insufficient class as specified in KRS 237.128, the department shall send to
14 each person who has been listed as successfully completing the concealed
15 deadly weapon applicant class or concealed deadly weapon instructor class a
16 verification form on which the time, date, date of range firing if different from
17 the date on which the class was conducted, location, and instructor of the class
18 is listed by the department and which requires the person to answer "yes" or
19 "no" to specific questions regarding the conduct of the training class. The
20 form shall be completed under oath and shall be returned to the Department of
21 Criminal Justice Training not later than forty-five (45) days after its receipt. A
22 person who fails to complete the form, to sign the form, or to return the form
23 to the Department of Criminal Justice Training within the time frame
24 specified in this section or who, as a result of information on the returned
25 form, is determined by the Department of Criminal Justice Training, following
26 a hearing pursuant to KRS Chapter 13B, to not have received the training
27 required by law shall have his or her concealed deadly weapon license

1 revoked by the Department of Kentucky State Police, following a hearing
2 conducted by the Department of Criminal Justice Training pursuant to KRS
3 Chapter 13B, at which hearing the person is found to have violated the
4 provisions of this section or who has been found not to have received the
5 training required by law;

6 (h) The department shall annually, not later than December 31 of each year, report
7 to the Legislative Research Commission:

8 1. The number of firearms instructor trainers and certified firearms
9 instructors whose certifications were suspended, revoked, denied, or
10 who were otherwise disciplined;

11 2. The reasons for the imposition of suspensions, revocations, denials, or
12 other discipline; and

13 3. Suggestions for improvement of the concealed deadly weapon applicant
14 training program and instructor process;

15 (i) If a concealed deadly weapon license holder is convicted of, pleads guilty to,
16 or enters an Alford plea to a felony offense, then his or her concealed deadly
17 weapon license shall be forthwith revoked by the Department of Kentucky
18 State Police as a matter of law;

19 (j) If a concealed deadly weapon instructor or instructor trainer is convicted of,
20 pleads guilty to, or enters an Alford plea to a felony offense, then his or her
21 concealed deadly weapon instructor certification or concealed deadly weapon
22 instructor trainer certification shall be revoked by the Department of Criminal
23 Justice Training as a matter of law; and

24 (k) The following shall be in effect:

25 1. Action to eliminate the firearms instructor trainer program is prohibited.
26 The program shall remain in effect, and no firearms instructor trainer
27 shall have his or her certification reduced to that of certified firearms

1 instructor;

2 2. The Department of Kentucky State Police shall revoke the concealed
 3 deadly weapon license of any person who received no firearms training
 4 as required by KRS 237.126 and administrative regulations, or who
 5 received insufficient training as required by KRS 237.128 and
 6 administrative regulations, if the person voluntarily admits nonreceipt of
 7 training or admits receipt of insufficient training, or if either nonreceipt
 8 of training or receipt of insufficient training is proven following a
 9 hearing conducted by the Department of Criminal Justice Training
 10 pursuant to KRS Chapter 13B.

11 ➔Section 20. KRS 431.015 is amended to read as follows:

12 (1) (a) KRS 431.005 to the contrary notwithstanding, and except as provided in
 13 paragraphs (b), (c), and (d) of this subsection, a peace officer shall issue a
 14 citation instead of making an arrest for a misdemeanor committed in his or her
 15 presence, if there are reasonable grounds to believe that the person being cited
 16 will appear to answer the charge. The citation shall provide that the defendant
 17 shall appear within a designated time.

18 (b) A peace officer may make an arrest instead of issuing a citation for a
 19 misdemeanor committed in his or her presence if the misdemeanor is:

20 1. A violation of KRS Chapter 508, 510, or 527, or KRS 189A.010,
 21 511.050, 511.085, 514.110, or 523.110;

22 2. An offense in which the defendant poses a risk of danger to himself,
 23 herself, or another person; or

24 3. An offense in which the defendant refuses to follow the peace officer's
 25 reasonable instructions.

26 (c) A peace officer shall make an arrest for violations of protective orders issued
 27 pursuant to KRS 403.715 to 403.785, ~~or~~ an order of protection as defined in

1 KRS 456.010, or an order of protection issued under Sections 3 or 5 of this
2 Act.

3 (d) A peace officer may make an arrest or may issue a citation for a violation of
4 KRS 508.030 which occurs in a hospital pursuant to KRS 431.005(1)(f).

5 (2) A peace officer may issue a citation instead of making an arrest for a violation
6 committed in his or her presence but may not make a physical arrest unless there are
7 reasonable grounds to believe that the defendant, if a citation is issued, will not
8 appear at the designated time or unless the offense charged is a violation of KRS
9 189.223, 189.290, 189.393, 189.520, 189.580, 235.240, 281.600, 511.080, or
10 525.070 committed in his or her presence or a violation of KRS 189A.010, not
11 committed in his or her presence, for which an arrest without a warrant is permitted
12 under KRS 431.005(1)(e).

13 (3) A peace officer may issue a citation when he or she has probable cause to believe
14 that the person being issued the citation has committed a misdemeanor outside of
15 his or her presence, if there are reasonable grounds to believe that the person being
16 cited will appear to answer the charge. The citation shall provide that the defendant
17 shall appear within a designated time.

18 (4) If the defendant fails to appear in response to the citation, or if there are reasonable
19 grounds to believe that he or she will not appear, a complaint may be made before a
20 judge and a warrant shall issue.

21 (5) When a physical arrest is made and a citation is issued in relation to the same
22 offense the officer shall mark on the citation, in the place specified for court
23 appearance date, the word "ARRESTED" in lieu of the date of court appearance.

24 ➔Section 21. KRS 431.076 is amended to read as follows:

25 (1) (a) On or after July 15, 2020, if a court enters:

26 1. An order of acquittal of criminal charges against a person; ~~[-, or enters]~~

27 2. An order dismissing with prejudice all criminal charges in a case against

1 a person and not in exchange for a guilty plea to another charge; ~~or~~

2 **3. An order dismissing a petition for an extreme risk protection order**
3 **under Section 2 of this Act;**

4 the court shall order the record expunged upon the expiration of thirty (30)
5 days, unless the person objects to the expungement. As used in this paragraph,
6 "criminal charges" shall not include a traffic infraction not otherwise
7 classified as a misdemeanor. The order expunging the records shall not require
8 any action by the person.

9 (b) A person who has been charged with a criminal offense and who has been
10 acquitted of the charges, or against whom charges have been dismissed and
11 not in exchange for a guilty plea to another charge, and whose records have
12 not been expunged pursuant to paragraph (a) of this subsection, may petition
13 the court in which the disposition of the charges was made to expunge all
14 charges.

15 (c) A person against whom felony charges originally filed in the District Court
16 have not resulted in an indictment by the grand jury or in an information filed
17 by the Commonwealth's attorney may petition the District Court in which the
18 charges were filed to dismiss and expunge all charges for which an indictment
19 or information has not issued.

20 (2) An expungement petition brought under subsection (1)(b) or (c) of this section shall
21 be filed no sooner than:

22 (a) Sixty (60) days following the order of acquittal or dismissal with prejudice by
23 the court;

24 (b) Six (6) months following the date of the District Court decision to hold the
25 matter to the grand jury; or

26 (c) For charges dismissed without prejudice:

27 1. For felony charges, three (3) years following the date of the order of

- 1 dismissal without prejudice; or
- 2 2. For misdemeanor charges, one (1) year following the date of the order of
- 3 dismissal without prejudice.
- 4 (3) (a) If the court finds that the petition under subsection (1)(b) of this section is
- 5 properly brought, the court shall grant the petition and order the expunging of
- 6 the records.
- 7 (b) 1. If the expungement petition is brought under subsection (1)(c) of this
- 8 section, the petition shall be served upon the offices of the county and
- 9 Commonwealth's attorneys that prosecuted the case.
- 10 2. Following the filing of the petition, the court shall notify the county and
- 11 Commonwealth's attorneys of an opportunity for a response to the
- 12 petition. The response shall be filed within ninety (90) days after the
- 13 filing of the petition.
- 14 3. If a response is not filed, ninety (90) days after the filing of the petition
- 15 the court shall dismiss the charges without prejudice and order the
- 16 expunging of the records.
- 17 4. If a response is filed, ninety (90) days after the date the response is filed,
- 18 if an indictment has not issued, the court shall dismiss without prejudice
- 19 the charges for which an indictment has not issued and order the
- 20 expunging of the records.
- 21 (4) An order of expungement pursuant to this section shall expunge all criminal records
- 22 in the custody of the court and any criminal records in the custody of any other
- 23 agency or official, including law enforcement records, but no order of expungement
- 24 pursuant to this section shall expunge records in the custody of the Department for
- 25 Community Based Services. The court shall order the expunging on a form
- 26 provided by the Administrative Office of the Courts. Every agency, with records
- 27 relating to the arrest, charge, or other matters arising out of the arrest or charge, that

1 is ordered to expunge records, shall certify to the court within sixty (60) days of the
2 entry of the expungement order, that the required expunging action has been
3 completed. All orders enforcing the expungement procedure shall also be expunged.

4 (5) (a) If an expungement is ordered under subsection (1)(a) or (b) of this section, an
5 appellate court which issued an opinion in the case shall order the appellate
6 case file to be sealed and also direct that the version of the appellate opinion
7 published on the court's Web site be modified to avoid use of the defendant's
8 name in the case title and body of the opinion.

9 (b) If an expungement is ordered under subsection (1)(c) of this section, an
10 appellate court which issued an opinion in the case may, upon motion of the
11 petitioner in the case, order the appellate case file to be sealed and also direct
12 that the version of the appellate opinion published on the court's Web site be
13 modified to avoid use of the petitioner's name in the case title and body of the
14 opinion.

15 (6) After the expungement, the proceedings in the matter shall be deemed never to have
16 occurred. The court and other agencies shall delete or remove the records from their
17 computer systems so that any official state-performed background check will
18 indicate that the records do not exist. The court and other agencies shall reply to any
19 inquiry that no record exists on the matter. The person whose record is expunged
20 shall not have to disclose the fact of the record or any matter relating thereto on an
21 application for employment, credit, or other type of application.

22 (7) Inspection of the records included in the order may thereafter be permitted by the
23 court only upon petition by the person who is the subject of the records and only to
24 those persons named in the petition.

25 (8) Except as provided in subsection (1)(a) of this section, this section shall be
26 retroactive.