

1 AN ACT relating to workforce development.

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

3 ➔Section 1. KRS 207.200 is amended to read as follows:

- 4 (1) The Kentucky Department of Workplace Standards is authorized to enforce the
5 employment provisions of KRS 207.130 to 207.240 in conjunction with the State
6 Attorney General's office and the state and local courts.
- 7 (2) Any individual with a disability requesting the intervention of the Kentucky
8 Department of Workplace Standards under this section shall, within one hundred
9 and eighty (180) days of the alleged incident, submit with his or her request a
10 signed, sworn statement specifying and describing the disability or disabilities
11 which affect him or her. This statement may be used by the commissioner of
12 workplace standards or his or her representative to determine if the individual does,
13 or does not, have a "physical disability" as defined in KRS 207.130(2). If the
14 commissioner of workplace standards or his or her representative determines that
15 the aggrieved individual does have a disability which falls under the definition in
16 KRS 207.130(2), the Department of Workplace Standards shall provide a copy of
17 the aggrieved individual's signed statement to the employer for his or her
18 inspection.
- 19 (3) In the event the employer wishes to challenge the validity of the statement, he or
20 she shall so notify the commissioner of workplace standards, who shall in turn
21 notify the aggrieved individual. If the aggrieved individual wishes the Department
22 of Workplace Standards to continue its involvement with the case, he or she shall
23 be required to submit to the commissioner of workplace standards, within thirty
24 (30) days of such notice, a signed, sworn statement from a licensed physician of his
25 or her choice, or from one of the state or federal agencies serving individuals with
26 disabilities:
- 27 (a) Specifying and describing the disability or disabilities affecting the individual;

1 and

2 (b) Indicating any specific type of employment for which such disability should
3 be considered a bona fide or necessary reason for limitation or exclusion.

4 (4) (a) The state agencies which may be consulted under subsection (3) of this
5 section may include~~[,]~~ but are not limited to~~[,]~~ the following:

6 1. Department of Education, Office of Vocational Rehabilitation Services;

7 2. Cabinet for Health and Family Services, Department for Public Health;

8 ***and***

9 3. Cabinet for Health and Family Services, Department for Income
10 Support.

11 (b) The commissioner of workplace standards, in conjunction with the agencies
12 designated in this subsection, is authorized to adopt appropriate regulations
13 governing the issuance and setting the standards of determinations of ability or
14 disability;

15 (c) The agencies designated in this subsection, and any other state agency which
16 serves individuals with disabilities and which the commissioner of workplace
17 standards deems proper, shall cooperate to the fullest with the Department of
18 Workplace Standards in issuing a statement of disability and limitations as
19 specified in subsection (3) of this section within twenty (20) days of the date
20 the individual with a disability presents himself ***or herself*** before such agency
21 for examination.

22 (5) (a) For the purposes of KRS 207.130 to 207.240, the commissioner of workplace
23 standards~~[,]~~ or his ***or her*** authorized representative~~[,]~~ shall have the power to
24 enter the place of employment of any employer, labor organization, or
25 employment agency to inspect and copy employment records, to compare
26 character of work and operations on which persons employed by him ***or her***
27 are engaged, to question such persons, and to obtain such other information as

- 1 is reasonably necessary to make a preliminary determination that the
2 aggrieved individual is, or is not, fully capable of carrying out the duties of the
3 job which he or she had been denied;
- 4 (b) In the event that a preliminary determination is made that the aggrieved
5 individual is not fully capable of carrying out the duties of the job which he or
6 she had been denied, the aggrieved individual and the employer shall both be
7 so advised;
- 8 (c) The aggrieved individual, within ten (10) days of receiving such notification,
9 may file with the Department of Workplace Standards an application for
10 reconsideration of the determination. Upon such application, the
11 commissioner of workplace standards or his or her representative shall make
12 a new determination within ten (10) days whether the aggrieved individual is,
13 or is not, fully capable of carrying out the duties of the job which he or she
14 had been denied. If the determination is again made that the aggrieved
15 individual is not fully capable of carrying out these duties, the aggrieved
16 individual and the employer shall both be so advised;
- 17 (d) In the event that a preliminary determination has been made that the aggrieved
18 individual is fully capable of carrying out the duties of the job which he or she
19 had been denied, the employer, labor organization, or employment agency
20 shall be so advised and encouraged to make an immediate offer to the
21 aggrieved individual of the position which he or she had been denied. In the
22 event the position has already been filled, the employer, labor organization, or
23 employment agency shall be encouraged to make an offer to the aggrieved
24 individual of the next available position for which he or she is qualified.