

1 AN ACT relating to crisis aversion and rights retention orders.

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 *Sections 1 to 16 of this Act shall be interpreted to:*

6 *(1) Allow the Commonwealth to act expeditiously in the interest of public safety and*
7 *welfare; and*

8 *(2) Preserve the rights afforded under the Constitutions of the United States and the*
9 *Commonwealth of Kentucky to the people of the Commonwealth to purchase,*
10 *possess, receive, and have firearms in their custody or control.*

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

13 *As used in Sections 1 to 16 of this Act:*

14 *(1) "Crisis aversion and rights retention order" means any crisis aversion and rights*
15 *retention order issued by a District Court pursuant to Section 6 of this Act,*
16 *including those issued on a temporary basis under Section 4 of this Act, and*
17 *including a foreign crisis aversion and rights retention order filed under Section*
18 *14 of this Act;*

19 *(2) (a) "Law enforcement officer" means a sworn member of a lawfully organized*
20 *police unit or police force of state, county, city, urban-county, charter*
21 *county, consolidated local, or unified local government who is responsible*
22 *for the detection of crime and the enforcement of the general criminal laws*
23 *of the state, as well as a federal police officer, sheriff, sworn deputy sheriff,*
24 *and campus police officer who is commissioned under KRS 164.950.*

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

1 (3) "Respondent" means the person against whom a crisis aversion and rights
 2 retention order is sought; and

3 (4) "Responsible party" means a person who:

4 (a) Does not cohabit with the respondent;

5 (b) May lawfully possess a firearm; and

6 (c) Enters into a written court agreement to accept the transfer of a firearm as
 7 a responsible party under Section 10 of this Act.

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

10 (1) A law enforcement officer may file a petition for a crisis aversion and rights
 11 retention order.

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

13 (3) The petition shall be verified and contain:

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

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

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

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

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

23 (5) In all proceedings under Sections 4, 6, 9, and 11 of this Act, it shall be the duty of
 24 the county attorney to assist the petitioner, to represent the interest of the
 25 Commonwealth, and to assist the court in its inquiry by the presentation of
 26 evidence.

27 (6) (a) The District Court shall have exclusive jurisdiction over crisis aversion and

1 rights retention orders.

2 (b) The Court of Justice shall provide a protocol for twenty-four (24) hour
3 access to crisis aversion and rights retention orders in each county. Any
4 protocol, whether statewide or local, shall be subject to Supreme Court
5 review and approval.

6 (7) Any judge to whom a petition is referred under this section shall have full
7 authority to review and hear a petition and subsequently grant and enforce a
8 crisis aversion and rights retention order.

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

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

15 (1) (a) The court shall review a petition for a crisis aversion and rights retention
16 order upon its filing.

17 (b) If the court finds there is a reasonable belief that the respondent poses an
18 immediate and present danger of causing serious physical injury to self or
19 others by purchasing, possessing, receiving, or having in his or her custody
20 or control a firearm, the court shall, without prior notice to the respondent,
21 issue a temporary crisis aversion and rights retention order, set a date for
22 an evidentiary hearing within fourteen (14) days, and issue a summons to
23 the parties.

24 (c) If the court finds there is not a reasonable belief that the respondent poses
25 an immediate and present danger of causing serious physical injury to self
26 or others, the court shall dismiss the petition.

27 (d) In reviewing the petition, the court shall consider the time that has elapsed

1 since the events described in the verified petition.

2 (e) Service of the temporary crisis aversion and rights retention order,
3 summons, and hearing order under this subsection shall be personally
4 served on the respondent by a law enforcement officer. A summons may be
5 reissued if service has not been made on the respondent by the fixed court
6 date and time.

7 (2) A temporary crisis aversion and rights retention order shall:

8 (a) Prohibit the respondent from purchasing, possessing, receiving, or having
9 in his or her custody or control a firearm, or attempting to purchase or
10 receive a firearm until a hearing on issuing a crisis aversion and rights
11 retention order can be held under Section 6 of this Act;

12 (b) Order the surrender of the respondent's firearms under Section 10 of this
13 Act until a hearing to determine whether to issue a crisis aversion and
14 rights retention order can be held under Section 6 of this Act; and

15 (c) Include:

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

19 2. A description of the requirements for surrender of firearms under
20 Section 10 of this Act;

21 3. The grounds supporting issuance of the order;

22 4. A notice of the hearing to determine whether to issue a crisis aversion
23 and rights retention order, including the address of the court and the
24 date and time when the hearing is scheduled;

25 5. A statement that, whether the respondent attends the hearing or not,
26 the court will rule on whether to convert the temporary order to a
27 crisis aversion and rights retention order for a period not to exceed

1 one (1) year, and that orders are renewable under Section 9 of this
2 Act; and

3 6. A statement that the respondent has the right to be represented by
4 counsel at all phases of the proceedings, and that an attorney shall be
5 appointed for indigent respondents upon request of the court.

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

8 (1) Prior to or at a hearing for a crisis aversion and rights retention order, the court
9 may obtain the respondent's criminal and protective order history, and any such
10 information obtained shall be provided to the petitioner and respondent in
11 accordance with the Rules of Civil Procedure.

12 (2) The respondent may ask the court for an extension of time prior to the hearing to
13 determine if a crisis aversion and rights retention order shall be issued.

14 (3) Prior to the hearing, a respondent who is not represented by counsel may request
15 the court appoint counsel to him or her. A respondent shall be entitled to
16 representation by the Department of Public Advocacy if he or she is a needy
17 person under KRS Chapter 31.

18 (4) (a) If the respondent is not present at the hearing ordered pursuant to Section 4
19 of this Act and has not been served, a previously issued temporary crisis
20 aversion and rights retention order shall remain in place, and the court
21 shall direct the issuance of a new summons for a hearing set not more than
22 fourteen (14) days in the future. If service has not been made on the
23 respondent before that hearing or a subsequent hearing, the temporary
24 crisis aversion and rights retention order shall remain in place, and the
25 court shall continue the hearing and issue a new summons with a new date
26 and time for the hearing to occur, which shall be within fourteen (14) days
27 of the previously scheduled hearing date. The court shall repeat the process

1 of continuing the hearing and reissuing a new summons until the
2 respondent is served in advance of the scheduled hearing. If service has not
3 been made on the respondent at least seventy-two (72) hours prior to the
4 scheduled hearing, the court may continue the hearing no more than
5 fourteen (14) days in the future. In issuing the summons, the court shall
6 simultaneously transmit a copy of the summons or notice of its issuance
7 and provisions to the petitioner.

8 (b) The provisions of this section permitting the continuance of a temporary
9 crisis aversion and rights retention order shall be limited to six (6) months
10 from the issuance of the temporary crisis aversion and rights retention
11 order. If the respondent has not been served within that period, the order
12 shall be rescinded without prejudice. Prior to the expiration of the
13 temporary crisis aversion and rights retention order, the court shall provide
14 notice to the petitioner stating that, if the petitioner does not file a new
15 petition, the order shall be rescinded without prejudice.

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

18 (1) When a hearing is ordered under Section 4 of this Act, the court shall consider
19 all admissible evidence presented by the petitioner and the respondent, and may
20 also consider other admissible evidence.

21 (2) Following a hearing ordered under Section 4 of this Act, if a court finds by clear
22 and convincing evidence that the respondent will pose an immediate and present
23 danger of serious physical injury to self or others if permitted to purchase,
24 possess, receive, or have in his or her custody or control a firearm, the court shall
25 issue a crisis aversion and rights retention order that:

26 (a) Prohibits the respondent from purchasing, possessing, receiving, or having
27 in his or her custody or control a firearm, or attempting to purchase or

1 receive a firearm from the date the order is issued until the order expires
 2 not to exceed one (1) year from the date of issue; and

3 (b) Orders the surrender of firearms under Section 10 of this Act until the
 4 order expires.

5 (3) A crisis aversion and rights retention order shall be effective for a period of time
 6 fixed by the court, not to exceed one (1) year, and may be reissued upon
 7 expiration pursuant to Section 9 of this Act for subsequent periods of up to one
 8 (1) year each.

9 (4) A crisis aversion and rights retention order shall include:

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

13 (b) A description of the requirements for surrender of firearms and the option
 14 of transfer to a responsible party under Section 10 of this Act;

15 (c) The grounds supporting issuance of the order;

16 (d) The date and time the order expires;

17 (e) The address of the court that issued the order;

18 (f) A statement that the respondent shall have the right to request a hearing to
 19 terminate the order once every ninety (90) days during its effective period
 20 for orders of one hundred twenty (120) days or longer; and

21 (g) A statement that the respondent may request that an attorney be appointed
 22 under Section 5 of this Act.

23 (5) When appropriate, the court may provide the respondent with information
 24 regarding locally available resources to assist persons in crisis.

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

27 (1) A crisis aversion and rights retention order shall become effective and binding on

- 1 the respondent when the respondent is given notice of the existence and terms of
2 the order by a law enforcement officer, the court, or upon personal service of the
3 order, whichever is earlier. A law enforcement officer or court giving notice of an
4 unserved order shall make all reasonable efforts to arrange for the order's
5 personal service upon the respondent. Once effective, a law enforcement officer
6 or the court may enforce the order's terms and act immediately upon their
7 violation.
- 8 (2) Costs, fees, or bond shall not be assessed against or required of a petitioner for
9 any filing, hearing, service, or order authorized by or required to implement
10 Sections 1 to 16 of this Act.
- 11 (3) Upon proper filing of a motion, either party may seek to terminate or renew a
12 crisis aversion and rights retention order if there has been a material change in
13 circumstances or if there is new evidence to present, as provided in Section 9 of
14 this Act.
- 15 (4) Testimony offered by a petitioner or a respondent in a hearing ordered pursuant
16 to Section 4 of this Act shall not be admissible in any criminal proceeding except
17 for purposes of impeachment.
- 18 (5) The court records of a respondent made in all proceedings pursuant to Sections 1
19 to 16 of this Act shall be confidential and shall not be open to the general public
20 for inspection, with the exception of law enforcement officers. Aggregate
21 statistical data about the number of crisis aversion and rights retention orders
22 requested, issued, renewed, denied, dissolved, or terminated shall be made
23 available by the Administrative Office of the Courts to the public upon request.
- 24 (6) If a petition made under Section 3 of this Act does not result in the issuance of a
25 crisis aversion and rights retention order, the court in which the petition was
26 heard shall order the expungement of the records of the case after thirty (30) days
27 have elapsed since the case was dismissed, in accordance with KRS 431.076,

1 unless the respondent requests in writing to preserve the record.

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

4 (1) Within twenty-four (24) hours of issuing, recognizing, renewing, dissolving, or
5 terminating a summons or a crisis aversion and rights retention order under
6 Sections 1 to 16 of this Act, the court shall forward, by the most expedient means
7 reasonably available, a copy of each to the appropriate agency designated for
8 entry of orders of protection into the Law Information Network of Kentucky, to
9 the agency assigned service, and to the Department of Kentucky State Police.

10 (2) Within twenty-four (24) hours of achieving service, a law enforcement officer
11 who serves an order shall cause a copy of each protection order issued under
12 Section 4 or 6 of this Act to be electronically forwarded to the appropriate agency
13 designated for entry of orders of protection into the Law Information Network of
14 Kentucky and to the Department of Kentucky State Police.

15 (3) (a) All forms, affidavits, and protection orders issued or filed pursuant to
16 Sections 1 to 16 of this Act which require entry into the Law Information
17 Network of Kentucky shall be entered on forms prescribed by the
18 Administrative Office of the Courts after consultation with the Justice and
19 Public Safety Cabinet.

20 (b) The information required to be submitted to the Law Information Network
21 of Kentucky pursuant to this section shall include identifying information
22 about the respondent and the date the order was issued, renewed, dissolved,
23 or terminated. In the case of a crisis aversion and rights retention order, the
24 court shall include the date the order is set to expire. The court shall also
25 indicate whether the respondent to a crisis aversion and rights retention
26 order was present in court to be advised of the contents of the order or if the
27 respondent failed to appear. The respondent's presence in court shall

1 constitute proof of service of notice of the terms of the order.

2 (4) The Department of Kentucky State Police shall immediately make information
3 about a crisis aversion and rights retention order issued, recognized, renewed, or
4 terminated pursuant to Sections 1 to 16 of this Act available to the National
5 Instant Criminal Background Check System for the purposes of firearm
6 purchaser background checks.

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

9 (1) (a) A respondent to a crisis aversion and rights retention order issued under
10 Section 6 of this Act and effective for one hundred twenty (120) days or
11 longer may submit to the issuing court a written request to terminate the
12 order once every ninety (90) days during the effective period of the order.
13 The respondent may request a hearing on the request for termination.

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

16 (c) If the court orders a termination hearing, the hearing shall:

17 1. Occur within fourteen (14) days from the date of service of the request
18 upon the petitioner; and

19 2. Be heard by the issuing court sitting without a jury.

20 (d) The respondent seeking termination of the order shall have the burden of
21 proving by clear and convincing evidence that the respondent will not pose
22 an immediate and present danger of causing serious physical injury to self
23 or others if permitted to purchase, possess, receive, or have in his or her
24 custody or control a firearm.

25 (e) The court may consider proof of crisis intervention, treatment, or services
26 received by the respondent while subject to a crisis aversion and rights
27 retention order as evidence in favor of termination of the order.

1 (f) If the court finds after the hearing that the respondent has met his or her
2 burden, the court shall terminate the order.

3 (2) For crisis aversion and rights retention orders effective for more than ninety (90)
4 days, the issuing court shall notify the petitioner that the order is set to expire at
5 least thirty (30) days before expiration. The notice shall advise the petitioner of
6 the procedures for seeking a renewal of the order pursuant to this section.

7 (3) (a) A petitioner may request a renewal of a crisis aversion and rights retention
8 order at any time during the ninety (90) day period preceding the expiration
9 of the order.

10 (b) Renewal proceedings for a crisis aversion and rights retention order shall
11 be heard by a judge of the District Court which issued the existing order,
12 and the existing crisis aversion and rights retention order shall remain in
13 effect until the court holds the hearing.

14 (c) The court may, after notice and a hearing, renew a crisis aversion and
15 rights retention order issued under Section 6 of this Act for up to one (1)
16 year after the prior date of expiration if the court finds by clear and
17 convincing evidence that the respondent will continue to pose an immediate
18 and present danger of causing serious physical injury to self or others if
19 permitted to purchase, possess, receive, or have in his or her custody or
20 control a firearm.

21 (d) In determining whether to renew a crisis aversion and rights retention order
22 issued under Section 6 of this Act, the court shall consider all relevant
23 evidence presented by the petitioner and the respondent, and may also
24 consider other relevant evidence.

25 (e) A crisis aversion and rights order renewed pursuant to this section shall be
26 subject to termination by further order of the court at a hearing held
27 pursuant to subsection (1) of this section or further renewed by order of the

1 *court pursuant to this subsection.*

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

4 *(1) Upon issuance of a crisis aversion and rights retention order, the court shall:*

5 *(a) Order the respondent to surrender to a local law enforcement agency all*
6 *firearms in the respondent's custody or control, or which the respondent*
7 *possesses; and*

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

- 10 *1. Identify adults living in the same household as the respondent; and*
11 *2. Provide notice to those adults that the respondent is prohibited from*
12 *having firearms in his or her custody or control while the order is in*
13 *effect.*

14 *(2) (a) If an order becomes binding and effective upon a respondent after personal*
15 *service of the order by a law enforcement officer, the respondent shall*
16 *surrender all firearms to the control of the law enforcement officer serving*
17 *the order; or*

18 *(b) If an order becomes binding and effective upon a respondent after the*
19 *respondent is given notice of the existence and terms of the order by a law*
20 *enforcement officer or the court, the law enforcement officer or the court*
21 *shall inform the respondent of the time, place, and manner of the surrender*
22 *to local law enforcement.*

23 *(3) At the time of surrender, a law enforcement officer taking possession of a firearm*
24 *pursuant to a crisis aversion and rights retention order shall issue a receipt*
25 *identifying all firearms that have been surrendered and provide a copy of the*
26 *receipt to the respondent. The officer serving the order shall file the original*
27 *receipt with the court that issued the crisis aversion and rights retention order,*

1 and shall ensure that the law enforcement agency retains a copy of the receipt.

2 (4) After firearms have been surrendered to a local law enforcement agency
 3 pursuant to a crisis aversion and rights retention order, the respondent or the
 4 rightful owner of the firearm, as applicable, may petition the issuing court to
 5 order the law enforcement agency to:

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

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

11 (c) Transfer the firearm to the Department of Kentucky State Police under KRS
 12 95.435, to be sold at public auction under KRS 16.220, with proceeds
 13 returned to the respondent or the rightful owner of the firearm, as
 14 applicable.

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

17 (1) A court that has probable cause to believe a respondent to a crisis aversion and
 18 rights retention order possesses, or has in his or her custody or control firearms
 19 that he or she has failed to surrender pursuant to Sections 1 to 16 of this Act, or
 20 has received or purchased firearms while subject to the order, shall issue a search
 21 warrant describing the firearms and authorizing a search of any location where
 22 the firearms are reasonably believed to be and order the seizure of any firearms
 23 discovered pursuant to such search.

24 (2) Firearms seized under this section shall be processed in the same manner as
 25 firearms surrendered under Section 10 of this Act.

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

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

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

9 (2) When a crisis aversion and risk retention order is terminated or expires, a law
10 enforcement agency holding any firearm that has been surrendered pursuant to
11 Section 10 of this Act or seized under Section 11 of this Act shall notify the
12 respondent that he or she may request the return of the firearm. A law
13 enforcement agency shall return any surrendered or seized firearm requested by
14 a respondent only after confirming, through a background check, that the
15 respondent is currently eligible to possess firearms.

16 (3) (a) Any firearm which was surrendered by a respondent pursuant to Section 10
17 of this Act and that remains unclaimed or has not been transferred by the
18 lawful owner one (1) year after any crisis aversion and rights retention
19 order has expired or terminated shall be treated as unclaimed property
20 under KRS Chapter 393A.

21 (b) Any firearm which was seized under Section 11 of this Act and that remains
22 unclaimed or has not been transferred by the lawful owner six (6) years
23 after any crisis aversion and rights retention order has expired or
24 terminated shall be treated as unclaimed property under KRS Chapter
25 393A.

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

1 (1) A person who knowingly files a petition for any crisis aversion and rights
 2 retention order, knowing the information in the petition to be materially false or
 3 with an intent to harass the respondent, is guilty of Class A misdemeanor.

4 (2) A person who knowingly purchases, possesses, receives, or has in his or her
 5 custody or control a firearm with knowledge that he or she is prohibited from
 6 doing so by any crisis aversion and rights retention order:

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

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

11 (3) If a respondent subject to a crisis aversion and rights retention order has
 12 transferred a firearm to a responsible party, and the responsible party
 13 intentionally or wantonly allows the respondent access to any firearm, the
 14 responsible party is guilty of a Class A misdemeanor.

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

17 The Commonwealth of Kentucky shall recognize and enforce orders from other states
 18 that are substantially similar to temporary crisis aversion and rights retention orders or
 19 crisis aversion and rights retention orders, provided that:

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

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

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

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

1 *Nothing in Sections 1 to 16 of this Act shall be construed to authorize a warrantless*
 2 *search or seizure by a law enforcement officer if a warrant would otherwise be*
 3 *required.*

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

6 *Sections 1 to 16 of this Act shall not be construed to impose criminal or civil liability*
 7 *on any person who chooses not to seek a crisis aversion and rights retention order.*

8 ➔Section 17. KRS 31.110 is amended to read as follows:

9 (1) A needy person who is being detained by a law enforcement officer, on suspicion of
 10 having committed, or who is under formal charge of having committed, or is being
 11 detained under a conviction of, a serious crime, or who is accused of having
 12 committed a public or status offense or who has been committed to the Department
 13 of Juvenile Justice or Cabinet for Health and Family Services for having committed
 14 a public or status offense as those are defined by KRS 610.010(1), 610.010(2)(a),
 15 (b), (c), or 630.020(2), *or who is a respondent under Sections 1 to 16 of this Act,* is
 16 entitled:

17 (a) To be represented by an attorney to the same extent as a person having his or
 18 her own counsel is so entitled; and

19 (b) Except as provided in subsection (2)(c) of this section, to be provided with the
 20 necessary services and facilities of representation, including investigation and
 21 other preparation. The courts in which the defendant is tried shall waive all
 22 costs.

23 (2) A needy person who is entitled to be represented by an attorney under subsection
 24 (1) of this section is entitled:

25 (a) To be counseled and defended at all stages of the matter beginning with the
 26 earliest time when a person providing his or her own counsel would be
 27 entitled to be represented by an attorney and including revocation of probation

1 or parole;

2 (b) To be represented in any appeal; and

3 (c) To be represented in any other post-conviction, or, if a minor under the age of
4 eighteen (18), post-disposition proceeding, including any appeal from a post-
5 conviction or post-disposition action. However, if the department and the
6 court of competent jurisdiction determines that it is not a proceeding that a
7 reasonable person with adequate means would be willing to bring at his or her
8 own expense, there shall be no further right to be represented by counsel
9 under the provisions of this chapter. In cases involving a minor under the age
10 of eighteen (18), prior to making a determination on whether or not a post-
11 disposition action is a proceeding that a reasonable person with adequate
12 means would be willing to bring at his or her own expense, an attorney with
13 the department shall be granted access to the court file of the minor:

14 1. Without the requirement of a formal court order in which the attorney
15 has provided a release signed by the minor or the minor's legal guardian
16 authorizing the use of the records; and

17 2. Notwithstanding any other statute prohibiting the disclosure of a
18 juvenile court file.

19 (3) A needy person's right to a benefit under subsection (1) or (2) of this section is not
20 affected by his or her having provided a similar benefit at his or her own expense, or
21 by he or she having waived it, at an earlier stage.

22 (4) A person, whether a needy person or not, who is a minor under the age of eighteen
23 (18) and who is in the custody of the Department of Juvenile Justice and is residing
24 in a residential treatment center or detention center is entitled to be represented on a
25 legal claim related to his or her confinement involving violations of federal or state
26 statutory rights or constitutional rights. Prior to representation, an attorney with the
27 department shall be granted access to the court file of the minor and residential

1 treatment center or detention center records pertaining to the juvenile:

2 (a) Without entering an appearance as an attorney of record; and

3 (b) Notwithstanding any other statute prohibiting the disclosure of a juvenile's
4 record, including KRS 15A.0651, 610.320, 610.340, or 610.345.

5 ➔Section 18. KRS 431.015 is amended to read as follows:

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

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

14 1. A violation of KRS Chapter 508, 510, or 527, or KRS 189A.010,
15 511.050, 511.085, 514.110, or 523.110;

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

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

20 (c) A peace officer shall make an arrest for violations of protective orders issued
21 pursuant to KRS 403.715 to 403.785 ~~or~~ an order of protection as defined in
22 KRS 456.010, or a crisis aversion and rights retention order issued under
23 Section 4 or 6 of this Act.

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

26 (2) A peace officer may issue a citation instead of making an arrest for a violation
27 committed in his or her presence but may not make a physical arrest unless there are

1 reasonable grounds to believe that the defendant, if a citation is issued, will not
 2 appear at the designated time or unless the offense charged is a violation of KRS
 3 189.223, 189.290, 189.393, 189.520, 189.580, 235.240, 281.600, 511.080, or
 4 525.070 committed in his or her presence or a violation of KRS 189A.010, not
 5 committed in his or her presence, for which an arrest without a warrant is permitted
 6 under KRS 431.005(1)(e).

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

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

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

18 ➔Section 19. KRS 431.076 is amended to read as follows:

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

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

21 2. An order dismissing with prejudice all criminal charges in a case against
 22 a person and not in exchange for a guilty plea to another charge; or[-]

23 3. *An order dismissing a petition for a crisis aversion and rights*
 24 *retention order under Section 4 of this Act;*

25 the court shall order the record expunged upon the expiration of thirty (30)
 26 days, unless the person objects to the expungement. As used in this paragraph,
 27 "criminal charges" shall not include a traffic infraction not otherwise

1 classified as a misdemeanor. The order expunging the records shall not require
2 any action by the person.

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

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

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

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

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

20 (c) For charges dismissed without prejudice:

21 1. For felony charges, three (3) years following the date of the order of
22 dismissal without prejudice; or

23 2. For misdemeanor charges, one (1) year following the date of the order of
24 dismissal without prejudice.

25 (3) (a) If the court finds that the petition under subsection (1)(b) of this section is
26 properly brought, the court shall grant the petition and order the expunging of
27 the records.

- 1 (b) 1. If the expungement petition is brought under subsection (1)(c) of this
2 section, the petition shall be served upon the offices of the county and
3 Commonwealth's attorneys that prosecuted the case.
- 4 2. Following the filing of the petition, the court shall notify the county and
5 Commonwealth's attorneys of an opportunity for a response to the
6 petition. The response shall be filed within ninety (90) days after the
7 filing of the petition.
- 8 3. If a response is not filed, ninety (90) days after the filing of the petition
9 the court shall dismiss the charges without prejudice and order the
10 expunging of the records.
- 11 4. If a response is filed, ninety (90) days after the date the response is filed,
12 if an indictment has not issued, the court shall dismiss without prejudice
13 the charges for which an indictment has not issued and order the
14 expunging of the records.
- 15 (4) An order of expungement pursuant to this section shall expunge all criminal records
16 in the custody of the court and any criminal records in the custody of any other
17 agency or official, including law enforcement records, but no order of expungement
18 pursuant to this section shall expunge records in the custody of the Department for
19 Community Based Services. The court shall order the expunging on a form
20 provided by the Administrative Office of the Courts. Every agency, with records
21 relating to the arrest, charge, or other matters arising out of the arrest or charge, that
22 is ordered to expunge records, shall certify to the court within sixty (60) days of the
23 entry of the expungement order, that the required expunging action has been
24 completed. All orders enforcing the expungement procedure shall also be expunged.
- 25 (5) (a) If an expungement is ordered under subsection (1)(a) or (b) of this section, an
26 appellate court which issued an opinion in the case shall order the appellate
27 case file to be sealed and also direct that the version of the appellate opinion

1 published on the court's Web site be modified to avoid use of the defendant's
2 name in the case title and body of the opinion.

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

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

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

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