

1 AN ACT relating to public protection.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO
4 READ AS FOLLOWS:

5 *Every law enforcement agency shall report at the end of the quarter to the Legislative*
6 *Research Commission:*

7 *(1) The number of warrants requested;*

8 *(2) The number of warrants issued by the court;*

9 *(3) The number of warrants executed by the law enforcement agency;*

10 *(4) The geographic location of all premises for which warrants were sought or*
11 *executed;*

12 *(5) The number of injuries or fatalities which occurred in the execution of warrants;*

13 *(6) The number of times officers reported using force;*

14 *(7) The number of complaints of excessive force received by the law enforcement*
15 *agency against its officers; and*

16 *(8) The number of injuries or fatalities which occurred as a result of the use of force*
17 *by officers of the law enforcement agency.*

18 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO
19 READ AS FOLLOWS:

20 *(1) A search warrant may be executed only within the period and at the times*
21 *authorized by the warrant and only by a law enforcement officer. A law*
22 *enforcement officer charged with its execution may be accompanied by such*
23 *other persons as may be reasonably necessary for the safe and successful*
24 *execution of the warrant.*

25 *(2) Before entering the premises, the law enforcement officer executing a search*
26 *warrant shall:*

27 *(a) Physically knock on an entry door to the premises in a manner and*

- 1 duration that can be heard by the occupants;
2 (b) Clearly announce in a manner that can be heard by the occupants that law
3 enforcement is executing a search warrant; and
4 (c) Wait a minimum of fifteen (15) seconds or for a reasonable amount of time
5 for occupants to respond, whichever is greater, before entering the
6 premises.
- 7 (3) A peace officer executing a search warrant shall not make forcible entry into the
8 premises to be searched without a warrant specifically authorizing forcible entry.
- 9 (4) Before undertaking any search or seizure pursuant to a search warrant, the peace
10 officer shall read and give a copy of the warrant to the person to be searched, or
11 to the person in apparent control of the premises or property to be searched. If
12 the premises are unoccupied or there is no one in apparent control, the peace
13 officer shall leave a copy of the warrant suitably affixed to the premises.
- 14 (5) A law enforcement officer shall not seek, execute, or participate in the execution
15 of a search warrant that does not require the persons executing the warrant to
16 knock and announce themselves and their purpose.

17 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO
18 READ AS FOLLOWS:

- 19 (1) All law enforcement officers present in the execution of a search warrant shall be
20 equipped with an operating body-worn camera.
- 21 (2) Each law enforcement officer shall activate his or her body-worn camera no later
22 than five (5) minutes prior to the execution of the search warrant, and shall not
23 deactivate the body-worn camera earlier than five (5) minutes following the
24 completion of the execution of the search warrant.
- 25 (3) All recorded data shall be retained for five (5) years following the execution of
26 the warrant in a separate electronic file category designated for this purpose.

27 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO

1 READ AS FOLLOWS:

2 Notwithstanding KRS 15.520, 67C.326, or 95.450, or any other statute to the contrary,
3 any peace officer who violates Section 4 or 5 of this Act may be subject to disciplinary
4 action, including suspension or dismissal.

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

7 (1) A peace officer shall wear and activate a body-worn camera when responding to
8 a call for service or during any interaction with the public initiated by the peace
9 officer, whether consensual or nonconsensual, for the purpose of enforcing the
10 law or investigating possible violations of the law.

11 (2) If a peace officer fails to activate a body-worn camera as required by this section
12 or Section 5 of this Act, or tampers with body-worn camera footage or operation
13 when required to activate the camera, there shall be a rebuttable presumption in
14 any investigative or legal proceeding, excluding criminal proceedings against the
15 peace officer, that the missing footage would have reflected misconduct by the
16 peace officer.

17 (3) If a peace officer fails to activate his or her body-worn camera as required by this
18 section or Section 5 of this Act, or tampers with body-worn camera footage or
19 operation when required to activate the camera, there shall be a rebuttable
20 presumption of inadmissibility of any statements sought to be introduced in a
21 prosecution through the peace officer related to the incident which:

22 (a) Were not recorded due to the peace officer's failure to activate the body-
23 worn camera; or

24 (b) Were not recorded by other means.

25 (4) In addition to any criminal liability and penalty under the law:

26 (a) If a court, administrative law judge, hearing officer, or a final decision in
27 an internal investigation finds that a peace officer intentionally failed to

- 1 activate or tampered with any body-worn camera, the peace officer's
 2 employer shall impose discipline up to and including termination; and
 3 **(b) If a court, administrative law judge, hearing officer, or a final decision in**
 4 **an internal investigation finds that a peace officer intentionally failed to**
 5 **activate or tampered with any body-worn camera and acted with the intent**
 6 **to conceal unlawful or inappropriate actions or obstruct justice:**
- 7 **1. Except as provided in subparagraph 2. of this paragraph, the peace**
 8 **officer's certification pursuant to KRS 15.380 to 15.404 shall be**
 9 **revoked for a period of not less than one (1) year and the revocation**
 10 **may only be lifted within the period of the revocation if the peace**
 11 **officer is exonerated by a court; and**
- 12 **2. If the incident resulted in a civilian death, the peace officer's**
 13 **certification pursuant to KRS 15.380 to 15.404 shall be revoked**
 14 **permanently and the revocation may only be overturned if the peace**
 15 **officer is exonerated by a court.**

16 ➔Section 6. KRS 61.168 is amended to read as follows:

17 (1) As used in this section:

- 18 (a) "Body-worn camera" means a video or audio electronic recording device that
 19 is carried by or worn on the body of a public safety officer. This definition
 20 does not include a dashboard mounted camera or recording device used in the
 21 course of clandestine investigations;
- 22 (b) "Body-worn camera recording" or "recording" means a video or audio
 23 recording, or both, that is made by a body-worn camera during the course of a
 24 public safety officer's official duties;
- 25 (c) "Personal representative" means a court-appointed guardian, attorney, or agent
 26 possessing written authorization to act on behalf of a person that is involved in
 27 an incident contained in a body-worn camera recording, a person holding a

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

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

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

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

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

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

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

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

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

1 through investigation, to the public within twenty-one (21) days after the
2 law enforcement agency received the complaint of misconduct. Video and
3 audio recordings released pursuant to this subsection shall not be edited
4 except to obscure the identity of a victim or witness. Any recording that
5 would substantially interfere with or jeopardize an active or ongoing
6 investigation may be withheld from the public, except that the recording
7 shall be released no later than forty-five (45) days from the date of the
8 allegation of misconduct. In all cases when release of a recording is delayed
9 in reliance on this subsection, the prosecuting attorney shall prepare a
10 written explanation of the interference or jeopardy that justifies the delayed
11 release, contemporaneous with the refusal to release the video or audio
12 recording. The explanation shall be released to the public no later than the
13 release of the video or audio recording[the release of the record shall be
14 governed by the provisions of KRS 61.870 to 61.884, including all of the
15 exceptions contained therein];

16 (d) Depicts a victim, witness, or an incident which resulted in a death, the
17 recording shall be provided upon request to the victim, witness, or personal
18 representative, and the victim, witness, or personal representative shall be
19 notified of his or her right to receive and review the recording at least
20 seventy-two (72) hours prior to public disclosure; or

21 (e)[~~(d)~~] Is requested by a person or other entity or the personal representative of
22 a person or entity that is directly involved in the incident contained in the
23 body-worn camera recording, it shall be made available by the public agency
24 to the requesting party for viewing on the premises of the public agency, but
25 the public agency shall not be required to make a copy of the recording except
26 as provided in KRS 61.169. The requesting parties shall not be limited in the
27 number of times they may view the recording under this paragraph.

- 1 (6) Nothing in this section or KRS 61.169 shall be interpreted to override any provision
 2 related to:
- 3 (a) Reports by law enforcement officers and criminal justice agencies under KRS
 4 17.150;
- 5 (b) The law and rules governing discovery or the submission and display of
 6 evidence in any court proceeding, whether criminal or civil, or any
 7 administrative proceeding; or
- 8 (c) The provisions of KRS 189A.100.

9 **(7) A witness, victim, or criminal defendant, or other person with a privacy interest**
 10 **implicated in subsection (4) of this section or in KRS 61.878, may waive in**
 11 **writing the individual privacy interest that may be implicated by public release of**
 12 **a recording. Upon receipt of a written waiver of the applicable privacy interest,**
 13 **accompanied by a request for release, the law enforcement agency may not redact**
 14 **or withhold release to protect that privacy interest.**

15 ➔Section 7. KRS 344.450 is amended to read as follows:

16 **(1) Every**~~Any~~ **person who, under color of any statute, ordinance, regulation,**
 17 **custom, or usage of this state or any of its political subdivisions, subjects, or**
 18 **causes to be subjected, any person within the jurisdiction thereof to the**
 19 **deprivation of any rights, privileges, or immunities secured by the Constitution**
 20 **and laws of the Commonwealth of Kentucky, or by the United States Constitution**
 21 **or any statute of the United States, shall be liable to the party** injured~~by any act~~
 22 ~~in violation of the provisions of this chapter.~~

23 **(2) The party injured under subsection (1) of this section** shall have a civil cause of
 24 action in Circuit Court to enjoin further violations, and to recover the actual
 25 damages sustained, **punitive damages, and**~~together with~~ the costs of the
 26 **lawsuit**~~law suit~~. The court's order or judgment shall include a reasonable fee for
 27 the plaintiff's attorney of record and any other remedies contained in this chapter.

1 (3) It shall not be a defense or immunity to any action brought pursuant to this
 2 section:

3 (a) That the defendant was acting in good faith;

4 (b) That the defendant believed, reasonably or otherwise, that his or her
 5 conduct was lawful at the time when it was committed;

6 (c) That the rights, privileges, or immunities secured by the federal or state
 7 Constitution or laws were not clearly established at the time of their
 8 deprivation by the defendant; or

9 (d) That the state of the law was otherwise such that the defendant could not
 10 reasonably have been expected to know whether his or her conduct was
 11 lawful.

12 ➔Section 8. KRS 15.420 is amended to read as follows:

13 As used in KRS 15.410 to 15.510, unless the context otherwise requires:

14 (1) "Cabinet" means the Justice and Public Safety Cabinet;

15 (2) "Deadly incident" means any use of deadly force by a police officer or an action
 16 taken in the line of duty by a police officer which results in the death or serious
 17 physical injury to another person;

18 ~~(3)~~(2) (a) "Police officer" means:

19 1. A local officer, limited to:

20 a. A full-time:

21 i. Member of a lawfully organized police department of county,
 22 urban-county, or city government; or

23 ii. Sheriff or full-time deputy sheriff, including any sheriff
 24 providing court security or appointed under KRS 70.030; or

25 b. A school resource officer as defined in KRS 158.441; and

26 2. A state officer, limited to:

27 a. A public university police officer;

- 1 b. A Kentucky state trooper;
- 2 c. A Kentucky State Police arson investigator;
- 3 d. A Kentucky State Police hazardous device investigator;
- 4 e. A Kentucky State Police legislative security specialist;
- 5 f. A Kentucky vehicle enforcement officer;
- 6 g. A Kentucky Horse Park mounted patrol officer, subject to KRS
- 7 15.460(1)(f);
- 8 h. A Kentucky state park ranger, subject to KRS 15.460(1)(f);
- 9 i. An agriculture investigator;
- 10 j. A charitable gaming investigator;
- 11 k. An alcoholic beverage control investigator;
- 12 l. An insurance fraud investigator;
- 13 m. An Attorney General investigator; and
- 14 n. A Kentucky Department of Fish and Wildlife Resources
- 15 conservation officer, subject to KRS 15.460(1)(e);
- 16 who is responsible for the prevention and detection of crime and the
- 17 enforcement of the general criminal laws of the state;
- 18 (b) "Police officer" does not include any sheriff who earns the maximum
- 19 constitutional salary for this office, any special deputy sheriff appointed under
- 20 KRS 70.045, any constable, deputy constable, district detective, deputy district
- 21 detective, special local peace officer, auxiliary police officer, or any other
- 22 peace officer not specifically authorized in KRS 15.410 to 15.510;
- 23 ~~(4)~~~~(3)~~ "Police department" means the employer of a police officer;
- 24 ~~(5)~~~~(4)~~ "Retirement plan" means a defined benefit plan consisting of required
- 25 employer contributions pursuant to KRS 61.565, 61.702, or any other provision of
- 26 law;
- 27 ~~(6)~~~~(5)~~ "Unit of government" means any city, county, combination of cities and

1 counties, public university, state agency, local school district, or county sheriff's
2 office of the Commonwealth; and

3 ~~(Z)(6)~~ "Validated job task analysis" means the core job description that describes the
4 minimum entry level requirements, qualifications, and training requirements for
5 peace officers in the Commonwealth, and that is based upon an actual survey and
6 study of police officer duties and responsibilities conducted by an entity recognized
7 by the council as being competent to conduct such a study.

8 ➔Section 9. KRS 15.440 is amended to read as follows:

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

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

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

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

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

27 2. As the exclusive method by which the number of hours required for

1 basic training courses shall be modified from that which is specifically
2 established by this paragraph, the council may, by the promulgation of
3 administrative regulations in accordance with the provisions of KRS
4 Chapter 13A, explicitly set the exact number of hours for basic training
5 at a number different from nine hundred twenty-eight (928) hours based
6 upon a training curriculum approved by the Kentucky Law Enforcement
7 Council as determined by a validated job task analysis.

8 3. If the council sets an exact number of hours different from nine hundred
9 twenty-eight (928) in an administrative regulation as provided by this
10 paragraph, it shall not further change the number of hours required for
11 basic training without promulgating administrative regulations in
12 accordance with the provisions of KRS Chapter 13A.

13 4. Nothing in this paragraph shall be interpreted to prevent the council,
14 pursuant to its authority under KRS 15.330, from approving training
15 schools with a curriculum requiring attendance of a number of hours that
16 exceeds nine hundred twenty-eight (928) hours or the number of hours
17 established in an administrative regulation as provided by subparagraphs
18 2. and 3. of this paragraph. However, the training programs and schools
19 for the basic training of law enforcement personnel conducted by the
20 department pursuant to KRS 15A.070 shall not contain a curriculum that
21 requires attendance of a number of hours for basic training that is
22 different from nine hundred twenty-eight (928) hours or the number of
23 hours established in an administrative regulation promulgated by the
24 council pursuant to the provisions of KRS Chapter 13A as provided by
25 subparagraphs 2. and 3. of this paragraph.

26 5. KRS 15.400 and 15.404(1), and subparagraphs 1. to 4. of this paragraph
27 to the contrary notwithstanding, the council may, through the

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

1 responsibilities; procedures for twenty-four (24) hour access to protective
2 orders; procedures for enforcement of court orders or relief when protective
3 orders are violated; procedures for timely and contemporaneous reporting of
4 adult abuse and domestic violence to the Cabinet for Health and Family
5 Services, Department for Community Based Services; victim rights,
6 assistance, and service responsibilities; and duties related to timely completion
7 of records;

8 (i) Possesses by January 1, 2017, a written policy and procedures manual related
9 to sexual assault examinations that meets the standards provided by, and has
10 been approved by, the cabinet, and which includes:

- 11 1. A requirement that evidence collected as a result of an examination
12 performed under KRS 216B.400 be taken into custody within five (5)
13 days of notice from the collecting facility that the evidence is available
14 for retrieval;
- 15 2. A requirement that evidence received from a collecting facility relating
16 to an incident which occurred outside the jurisdiction of the police
17 department be transmitted to a police department with jurisdiction
18 within ten (10) days of its receipt by the police department;
- 19 3. A requirement that all evidence retrieved from a collecting facility under
20 this paragraph be transmitted to the Department of Kentucky State
21 Police forensic laboratory within thirty (30) days of its receipt by the
22 police department;
- 23 4. A requirement that a suspect standard, if available, be transmitted to the
24 Department of Kentucky State Police forensic laboratory with the
25 evidence received from a collecting facility; and
- 26 5. A process for notifying the victim from whom the evidence was
27 collected of the progress of the testing, whether the testing resulted in a

1 match to other DNA samples, and if the evidence is to be destroyed. The
2 policy may include provisions for delaying notice until a suspect is
3 apprehended or the office of the Commonwealth's attorney consents to
4 the notification, but shall not automatically require the disclosure of the
5 identity of any person to whom the evidence matched; ~~and~~

6 (j) Complies with and possesses by July 30, 2021, a written policy and
7 procedures manual related to mandatory drug and alcohol testing of police
8 officers after the discharge of a firearm or a deadly incident, which
9 includes:

10 1. A requirement that each police officer who has discharged his or her
11 firearm or been involved in a deadly incident submits to drug and
12 alcohol testing;

13 2. A requirement that drug and alcohol testing be performed as soon as
14 practicable after the discharge of a firearm or deadly incident, but no
15 later than two (2) hours after the discharge of a firearm or deadly
16 incident and before any interviews are conducted regarding the
17 incident;

18 3. Notwithstanding any statute to the contrary, a requirement that any
19 police officer who does not submit to mandatory drug and alcohol
20 testing after the discharge of a firearm or deadly incident within two
21 (2) hours:

22 a. Be suspended without pay for a period not less than ninety (90)
23 days;

24 b. Drafts a written statement detailing the reasons the police officer
25 did not submit to drug and alcohol testing within two (2) hours
26 that shall become part of the police officer's personnel file; and

27 c. Provides the written statement to the Kentucky Law Enforcement

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Council;

4. A requirement that any police officer who tests positive for either drugs or alcohol after the discharge of a firearm or deadly incident be suspended without pay for a period not less than one hundred eighty (180) days; and

5. A requirement that the police department submit its final determination to the Kentucky Law Enforcement Council regarding its disposition of the investigation; and

~~(k)(j)~~ Requires all police officers to successfully complete by December 31, 2022, and every two (2) years thereafter, a training course certified by the council of not less than four (4) hours in emergency vehicle operation.

(2) A unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund only if the police department of the unit of government remains in compliance with the requirements of this section.

(3) Deputies employed by a sheriff's office shall be eligible to participate in the distribution of funds from the Law Enforcement Foundation Program fund regardless of participation by the sheriff.

(4) Failure to meet a deadline established in a policy adopted pursuant to subsection (1)(i) of this section for the retrieval or submission of evidence shall not be a basis for a dismissal of a criminal action or a bar to the admissibility of the evidence in a criminal action.

➔Section 10. KRS 15.340 is amended to read as follows:

Subject to approval by the secretary, the department may make its facilities and services available upon the following terms:

(1) The department may determine to which law enforcement agencies, corrections agencies, and court agencies and its officers it will offer training;

1 (2) In determining the law enforcement officers for which it will offer training and in
2 allocating available funds, the department shall give first priority to "police officers"
3 as defined by KRS 15.420~~[(2)]~~, public airport authority security officers, and
4 campus police;

5 (3) Fire investigators shall be offered training by the department;

6 (4) Except for the officers described in subsection (2) of this section, the department
7 may determine whether persons to whom it offers training or agencies employing
8 such persons must bear any or all costs of such training.

9 ➔Section 11. KRS 15.460 is amended to read as follows:

10 (1) (a) Except as provided in subsection (4)(a) of this section, an eligible unit of
11 government shall be entitled to receive an annual supplement of three
12 thousand dollars (\$3,000) for each qualified police officer it employs. The
13 supplement amount shall be increased to four thousand dollars (\$4,000)
14 beginning July 1, 2018.

15 (b) 1. In addition to the supplement, the unit of government shall receive an
16 amount equal to the required employer's contribution on the supplement
17 to the retirement plan and duty category to which the officer belongs. In
18 the case of County Employees Retirement System membership, the
19 retirement plan contribution on the supplement shall be paid whether the
20 officer enters the system under hazardous duty coverage or
21 nonhazardous coverage.

22 2. The unit of government shall pay the amount received for retirement
23 plan coverage to the appropriate retirement system to cover the required
24 employer contribution on the pay supplement.

25 3. If the foundation program funds are insufficient to pay employer
26 contributions to the system, then the total amount available for
27 retirement plan payments shall be prorated to each eligible government

1 so that each receives the same percentage of required retirement plan
2 costs attributable to the cash salary supplement.

3 (c) 1. In addition to the payments received under paragraphs (a) and (b) of this
4 subsection, but only if sufficient funds are available to make all
5 payments required under paragraph (b) of this subsection, each unit of
6 government shall receive an administrative expense reimbursement in an
7 amount equal to seven and sixty-five one-hundredths percent (7.65%) of
8 the total annual supplement received greater than three thousand one
9 hundred dollars (\$3,100) for each qualified police officer that is a local
10 officer as defined in KRS 15.420(3)~~(2)~~(a)1. that it employs, subject to
11 the cap established by subparagraph 3. of this paragraph.

12 2. The unit of government may use the moneys received under this
13 paragraph in any manner it deems necessary to partially cover the costs
14 of administering the payments received under paragraph (a) of this
15 subsection.

16 3. The total amount distributed under this paragraph shall not exceed the
17 total sum of five hundred twenty-five thousand dollars (\$525,000) for
18 each fiscal year. If there are insufficient funds to provide for full
19 reimbursement as provided in subparagraph 1. of this paragraph, then
20 the amount shall be distributed pro rata to each eligible unit of
21 government so that each receives the same percentage attributable to its
22 total receipt of the cash salary supplement.

23 (d) In addition to the payments received under paragraphs (a) and (b) of this
24 subsection, each unit of government shall receive the associated fringe
25 benefits costs for the total supplement of four thousand dollars (\$4,000) for
26 each qualified police officer that is a state officer as defined in KRS
27 15.420(3)(a)2.~~[15.420(2)(a)2.]~~ that it employs. Fringe benefits shall be limited

1 to retirement plan contributions and the federal insurance contributions act
2 tax.

3 (e) Notwithstanding paragraphs (a) to (d) of this subsection, a Kentucky
4 Department of Fish and Wildlife Resources conservation officer appointed
5 pursuant to KRS 150.090(2) and listed in KRS
6 15.420(3)(a)2.n.~~[15.420(2)(a)2.n.]~~ shall be a participant in the Kentucky Law
7 Enforcement Foundation Program fund, but shall not receive an annual
8 supplement from that fund. A conservation officer shall receive an annual
9 training stipend commensurate to the annual supplement paid to the police
10 officer as defined in KRS 15.420. The annual training stipend disbursed to a
11 conservation officer shall be paid from the game and fish fund pursuant to
12 KRS 150.150.

13 (f) Any peace officer sanctioned by the Tourism, Arts and Heritage Cabinet shall
14 be deemed a police officer solely for the purpose of inclusion in the Law
15 Enforcement Foundation Program fund.

16 (2) The supplement provided in subsection (1) of this section shall be paid by the unit
17 of government to each police officer whose qualifications resulted in receipt of a
18 supplemental payment. The payment shall be in addition to the police officer's
19 regular salary and, except as provided in subsection (4)(b) of this section, shall
20 continue to be paid to a police officer who is a member of:

21 (a) The Kentucky National Guard during any period of activation under Title 10
22 or 32 of the United States Code or KRS 38.030; or

23 (b) Any reserve component of the United States Armed Forces during any period
24 of activation with the United States Armed Forces.

25 (3) (a) A qualified sheriff who receives the maximum salary allowed by Section 246
26 of the Kentucky Constitution and KRS 64.527 shall not receive a supplement.

27 (b) A qualified sheriff who does not receive the maximum salary allowed by

1 Section 246 of the Kentucky Constitution and KRS 64.527, excluding the
2 expense allowance provided by KRS 70.170, shall upon annual settlement
3 with the fiscal court under KRS 134.192, receive that portion of the
4 supplement that will not cause his or her compensation to exceed the
5 maximum salary.

6 (c) A qualified sheriff who seeks to participate in the fund shall forward a copy of
7 the annual settlement prepared under KRS 134.192 to the fund. The sheriff
8 shall reimburse the fund if an audit of the annual settlement conducted
9 pursuant to KRS 134.192 reflects that the sheriff received all or a portion of
10 the supplement in violation of this section. A sheriff who fails to provide a
11 copy of the annual settlement to the fund or to reimburse the fund after
12 correction by audit, if required, shall not be qualified to participate in the fund
13 for a period of two (2) years.

14 (d) A qualified deputy sheriff shall receive the supplement from the sheriff if the
15 sheriff administers his or her own budget or from the county treasurer if the
16 sheriff pools his or her fees. The failure of a sheriff to comply with the
17 provisions of this section shall not affect the qualification of his or her
18 deputies to participate in the fund.

19 (4) (a) Eligible units of government shall receive the salary supplement, excluding
20 funds applicable to the employer's retirement plan contribution, provided in
21 subsection (1) of this section for distribution to a police officer who is eligible
22 under subsection (2) of this section.

23 (b) A qualified police officer receiving a salary supplement during any period of
24 military activation, as provided in subsection (2) of this section, shall not be
25 entitled to receive the employer's retirement plan contribution, and the salary
26 supplement shall not be subjected to an employee's contribution to a
27 retirement plan. The salary supplement shall otherwise be taxable for all

1 purposes.

2 (5) A unit of government receiving disbursements under this section shall follow all
3 laws applicable to it that may govern due process disciplinary procedures for its
4 officers, but this subsection shall not be interpreted to:

5 (a) Authorize the department, the cabinet, or the council to investigate, judge, or
6 exercise any control or jurisdiction regarding the compliance of a unit of
7 government with laws that may govern due process disciplinary procedures
8 for its officers, except as otherwise provided by laws;

9 (b) Create a private right of action for any police officer regarding an agency's
10 participation in this section;

11 (c) Authorize a termination of an agency's participation as a result of a judgment
12 that the unit of government failed to follow its procedures in any independent
13 cause of action brought by the police officer against the unit of government; or

14 (d) Prevent the adoption, amendment, or repeal of any laws that may govern the
15 due process disciplinary procedures of a unit of government's police officers.

16 ➔Section 12. KRS 15.520 is amended to read as follows:

17 (1) As used in this section:

18 (a) "Citizen" means any individual who is not:

19 1. A member or supervisor within the law enforcement agency that
20 employs an officer; or

21 2. An elected or appointed official within the unit of government under
22 which the law enforcement agency that employs the officer is organized;

23 (b) "Complaint" means any statement by a citizen, whether written or verbal, that
24 alleges any type of misconduct by an officer, including statements that are
25 submitted or received anonymously;

26 (c) "Disciplinary action" means termination, demotion, a decrease in pay or grade,
27 suspension without pay, and a written reprimand;

- 1 (d) "General employment policies" means the rules, regulations, policies, and
2 procedures commonly applicable to the general workforce or civilian
3 employees that are not unique to law enforcement activities or the exercise of
4 peace officer authority, regardless of whether those rules, regulations, policies,
5 and procedures exist or appear in a departmental manual or handbook that is
6 solely applicable to a law enforcement department or agency within the unit of
7 government employing the officer;
- 8 (e) "Interrogation" means a formal investigative interview and does not mean
9 conversations or meetings of supervisory personnel and subordinate officers
10 that are not intended to result in disciplinary action, such as conversations or
11 meetings held for the purpose of providing corrective instruction counseling
12 or coaching;
- 13 (f) "Law enforcement procedures" means only those policies, rules, and customs
14 that:
- 15 1. Are specific to the conduct of officers in the exercise of law enforcement
16 powers and functions, including, without limitation: use of force,
17 conduct in the course of pursuits, conduct during stops or detentions of
18 citizens, conduct in the course of interacting with, assisting, or
19 questioning of citizens, and investigative conduct;
 - 20 2. Are carried out in the course of peace officer functions;
 - 21 3. Are not general employment policies; and
 - 22 4. May exist in either written form or in the form of unwritten standards,
23 practices, or protocols generally accepted and applied in the law
24 enforcement profession;
- 25 (g) "Misconduct" means any act or omission by an officer that violates criminal
26 law, law enforcement procedures, or the general employment policies of the
27 employing agency; and

- 1 (h) "Officer" means a person employed as a full-time peace officer by a unit of
2 government that receives funds under KRS 15.410 to 15.510, except a state
3 officer listed in KRS 15.420(3)(a)2.b.~~[15.420(2)(a)2.b]~~. to f. and n., who has
4 completed any officially established initial probationary period of employment
5 lasting no longer than twelve (12) months not including, unless otherwise
6 specified by the employing agency, any time the officer was employed and
7 completing the basic training required by KRS 15.404.
- 8 (2) In order to establish a minimum system of professional conduct for officers of local
9 units of government of this Commonwealth, the following standards are stated as
10 the intention of the General Assembly to deal fairly and establish administrative due
11 process rights in certain disciplinary matters concerning those officers of an
12 employing unit of government that participates in the Kentucky Law Enforcement
13 Foundation Program fund administered pursuant to KRS 15.430 and, at the same
14 time, to provide a means for redress by the citizens of the Commonwealth for
15 wrongs allegedly done to them by officers covered by this section.
- 16 (3) Any complaint taken from a citizen alleging misconduct on the part of any officer
17 shall be taken as follows:
- 18 (a) If the complaint alleges criminal activity by an officer, the allegations may be
19 investigated without a signed, sworn complaint of the citizen;
- 20 (b) If the complaint alleges any other type of violation not constituting criminal
21 activity, including violations of law enforcement procedures or the general
22 employment policies of the employing agency, an affidavit, signed and sworn
23 to by the citizen, shall be obtained, except as provided by paragraph (c) of this
24 subsection; or
- 25 (c) If a complaint is required to be obtained and the citizen, upon request, refuses
26 to make allegations under oath in the form of an affidavit, signed and sworn
27 to, the employing agency may investigate the allegations, but shall bring

1 charges under subsection (6) of this section against the officer only if the
2 employing agency can independently substantiate the allegations absent the
3 sworn statement of the citizen.

4 (4) (a) When an officer is accused of an act or omission that would constitute a
5 violation of law enforcement procedures by any individual within the law
6 enforcement agency employing the officer, including supervisors and elected
7 or appointed officials of the officer's employing agency, the employing agency
8 shall conform the conduct of any investigation to the provisions of subsection
9 (5) of this section, shall formally charge the officer in accordance with
10 subsection (6) of this section, and shall conduct a hearing in accordance with
11 subsection (7) of this section before any disciplinary action shall be taken
12 against the officer.

13 (b) The provisions of this subsection shall not prevent the employing agency from
14 suspending the officer, with or without pay, during an investigation and
15 pending the final disposition of any formal charges, except that an officer
16 suspended without pay shall be entitled to full back pay and benefits for the
17 regular hours he or she would have worked if no formal charges are brought or
18 the hearing authority finds the officer not guilty of the charges.

19 (c) An employing agency shall not be required to follow the provisions of this
20 section in addressing conduct by the officer that would constitute a violation
21 of the general employment policies of the employing agency.

22 (5) (a) Any complaint filed by a citizen under subsection (3) of this section or any
23 allegation of conduct that would constitute a violation of law enforcement
24 procedures under subsection (4) of this section shall be investigated by the
25 employing agency or another designated law enforcement agency in
26 accordance with the provisions of this subsection if the employing agency
27 determines that an investigation of the complaint or the alleged conduct is

1 warranted.

2 (b) No threats, promises, or coercions shall be used at any time against any officer
3 while he or she is a suspect in a criminal case or has been accused of a
4 violation of law enforcement procedures. Suspension from duty with or
5 without pay, or reassignment to other than an officer's regular duties during
6 the period shall not be deemed coercion. Prior to or within twenty-four (24)
7 hours after suspending the officer pending investigation or disposition of a
8 complaint, the officer shall be advised in writing of the reasons for the
9 suspension.

10 (c) Unless otherwise agreed to in writing by the officer, no police officer shall be
11 subjected to interrogation for alleged conduct that violates law enforcement
12 procedures, until forty-eight (48) hours have expired from the time the request
13 for interrogation is made to the accused officer, in writing. The notice of
14 interrogation shall include a statement regarding any reason for the
15 interrogation and shall be served on the officer by certified mail, return receipt
16 requested, or by personal delivery.

17 (d) The interrogation shall be conducted while the officer is on duty. The officer
18 may be required to submit a written report of the alleged incident if the
19 request is made by the employing agency no later than the end of the subject
20 officer's next tour of duty after the tour of duty during which the employing
21 agency initially was made aware of the complaint.

22 (e) If an officer is under arrest, or likely to be arrested, or a suspect in any
23 criminal investigation, he or she shall be afforded the same constitutional due
24 process rights that are accorded to any civilian, including, but not limited to,
25 the right to remain silent and the right to counsel, and shall be notified of
26 those rights before any questioning commences.

27 (6) (a) If it is determined through investigation or other means that the facts alleged

1 in a citizen complaint or in an accusation of a violation of law enforcement
2 procedures warrant charging the officer, the charge shall be made in writing
3 with sufficient specificity so as to fully inform the officer of the nature and
4 circumstances of the alleged violation in order that he or she may be able to
5 properly defend himself or herself.

6 (b) The charge shall be signed by a representative of the employing agency, shall
7 set out the disciplinary action recommended or imposed, and shall be served
8 on the officer in writing by certified mail, return receipt requested, or by
9 personal delivery.

10 (c) When an officer has been charged with a violation of law enforcement
11 procedures, no public statements shall be made concerning the alleged
12 violation by any person or persons of the employing agency or the officer so
13 charged, until final disposition of the charges.

14 (d) No officer as a condition of continued employment by the employing agency
15 shall be compelled to speak or testify or be questioned by any person or body
16 of a nongovernmental nature.

17 (7) Unless waived by the charged officer in writing, a hearing shall be conducted by the
18 officer's appointing authority to determine whether there is substantial evidence to
19 prove the charges and to determine what, if any, disciplinary action shall be taken if
20 substantial evidence does exist. In conducting a hearing, the following
21 administrative due process rights shall be recognized and these shall be the
22 minimum rights afforded any officer charged, except as otherwise agreed to in
23 writing by the officer and the employing agency:

24 (a) The accused officer shall be given at least twelve (12) days' written notice of
25 any hearing. The notice of hearing shall be served on the officer by certified
26 mail, return receipt requested, or by personal delivery;

27 (b) Copies of any sworn statements or affidavits to be considered by the hearing

- 1 authority and any exculpatory statements or affidavits shall be furnished to the
2 officer no less than twelve days (12) prior to the time of any hearing;
- 3 (c) At any hearing based upon the sworn complaint of a citizen, the citizen shall
4 be notified to appear at the time and place of the hearing by certified mail,
5 return receipt requested, or by personal delivery;
- 6 (d) If the return receipt has been returned unsigned, or the individual does not
7 appear, except due to circumstances beyond his or her control he or she cannot
8 appear at the time and place of the hearing, any charge resulting from a
9 complaint made by that citizen shall not be considered by the hearing
10 authority and shall be dismissed with prejudice;
- 11 (e) The accused officer shall have the right and opportunity to obtain and have
12 counsel present, and to be represented by counsel;
- 13 (f) The appointing authority, legislative body, or other body as designated by the
14 Kentucky Revised Statutes shall subpoena and require the attendance of
15 witnesses and the production by them of books, papers, records, and other
16 documentary evidence at the request of the accused officer or the charging
17 party. If any person fails or refuses to appear under the subpoena, or to testify,
18 or to attend, or produce the books, papers, records, or other documentary
19 evidence lawfully required, the appointing authority, legislative body, or other
20 body as designated by the Kentucky Revised Statutes may report to the Circuit
21 Court or any judge thereof the failure or refusal, and apply for a rule. The
22 Circuit Court, or any judge thereof, may on the application compel obedience
23 by proceedings for contempt as in the case of disobedience of the
24 requirements of a subpoena issued from the court;
- 25 (g) The accused officer shall be allowed to present witnesses and any
26 documentary or other relevant evidence the officer wishes to provide to the
27 hearing authority, and may cross-examine all witnesses called by the charging

1 party;

2 (h) If any officer who has been suspended with or without pay is not given a
3 hearing as provided by this section within seventy-five (75) days of any charge
4 being filed pursuant to this section, the charge shall be dismissed with
5 prejudice and shall not be considered by any hearing authority and the officer
6 shall be reinstated with full back pay and benefits;

7 (i) Any officer who has been suspended without pay who is found not guilty of
8 the charges by the hearing authority shall be reinstated with the full back pay
9 and benefits for the regular hours he or she would have worked;

10 (j) The failure to provide any of the rights or to follow the provisions of this
11 section may be raised by the officer with the hearing authority. The hearing
12 authority shall not exclude proffered evidence based on failure to follow the
13 requirements of this section but shall consider whether, because of the failure,
14 the proffered evidence lacks weight or credibility and whether the officer has
15 been materially prejudiced; and

16 (k) To the extent the provisions of KRS 61.805 to 61.850 are applicable, the
17 hearing authority may conduct the hearing required by this subsection in a
18 closed session, unless the officer requests of the hearing authority in writing at
19 least three (3) days prior to the hearing that the hearing be open to the public.

20 (8) (a) Any officer who is found guilty by any hearing authority of any charge, may
21 bring an action in the Circuit Court in the county in which the employing
22 agency is located within thirty (30) days of the date written findings are issued
23 to appeal the action of the hearing authority. The appeal shall be initiated by
24 the filing of a complaint in the same manner as any civil action under the
25 Rules of Civil Procedure and shall include a copy of the hearing authority's
26 final order. The Circuit Court review of the case shall be based solely upon the
27 administrative record created before the hearing authority and any new

1 evidence offered by the officer regarding alleged arbitrariness on the part of
2 the hearing authority.

3 (b) The judgment of the Circuit Court shall be subject to appeal to the Court of
4 Appeals. The procedure as to appeal to the Court of Appeals shall be the same
5 as in any civil action.

6 (9) The provisions of KRS 90.310 to 90.410, 95.450, and 95.765 shall not apply in any
7 proposed disciplinary action arising from a citizen complaint made under subsection
8 (3) of this section or arising from any allegation of conduct that would constitute a
9 violation of law enforcement procedures under subsection (4) of this section. This
10 section shall not be interpreted or construed to alter or impair any of the substantive
11 rights provided to a city police officer under KRS 90.310 to 90.410, 95.450, and
12 95.765 for any proposed disciplinary action or other matters not arising under
13 subsections (3) and (4) of this section, including proposed actions involving alleged
14 violations of general employment policies. To the extent that the provisions of this
15 section are inapplicable to any proposed disciplinary action against a city police
16 officer, the provisions of KRS 90.310 to 90.410, 95.450, and 95.765 shall remain in
17 full force and effect.

18 (10) As the provisions of this section relate to a minimum system of professional
19 conduct, nothing in this section shall be interpreted or construed to:

20 (a) Limit or to in any way affect any rights previously afforded to officers of the
21 Commonwealth by statute, collective bargaining or working agreement, or
22 legally adopted ordinance;

23 (b) Preclude an employing agency from investigating and charging an officer both
24 criminally and administratively;

25 (c) Prevent the suspension with or without pay or reassignment of an officer
26 during an investigation and pending final disposition charges;

27 (d) Permit an employing agency to categorize and treat any complaint that

1 originates from a citizen as an internal matter in order to avoid application of
 2 all of the provisions of this section to the final disposition of a citizen's
 3 complaint;

4 (e) Apply any disciplinary action required by this section to actions taken by an
 5 employing agency that is not related to misconduct by a law enforcement
 6 officer, such as personnel decisions made by the employing agency due to a
 7 lack of resources or personnel decisions related to a chief's management of a
 8 police department; or

9 (f) Prevent an employing agency from electing to apply the provisions of this
 10 section, or parts thereof, in circumstances that would not be covered under this
 11 section.

12 (11) This section shall not apply to officers employed by a consolidated local
 13 government that receives funds under KRS 15.410 to 15.510, who shall instead be
 14 governed by the provisions of KRS 67C.326.

15 ➔Section 13. KRS 15.512 is amended to read as follows:

16 Each law enforcement agency or other employing agency whose officers are required to
 17 meet the training requirements of KRS 15.440(1)(k)~~[15.440(1)(j)]~~ shall retain a record of
 18 each of its officers having met the biennial training. These records shall be made
 19 available upon request to the Kentucky Law Enforcement Council and to the Justice and
 20 Public Safety Cabinet.

21 ➔Section 14. KRS 61.169 is amended to read as follows:

22 (1) Subject to the provisions of KRS 61.870 to 61.884 and the following requirements,
 23 a copy of a recording that may be viewed under KRS 61.168(5)(e)~~[(d)]~~ shall, upon
 24 request, be made for and provided to an attorney that:

25 (a) Is licensed to practice law in the Commonwealth of Kentucky;

26 (b) Represents the person or entity that is directly involved in the incident
 27 contained in the body-worn camera recording;

- 1 (c) Has not been disqualified under subsection (3) of this section; and
- 2 (d) Executes an affidavit in support of limited release regarding the attorney's
- 3 responsibility for the care and custody of the copy of the recording that
- 4 specifically stipulates that he or she:
- 5 1. Will only use the recording for the sole purposes of evaluating or
 - 6 preparing for an existing or potential court case or administrative
 - 7 proceeding or in consulting with insurance companies on matters related
 - 8 to insurance coverage of incidents that are depicted in the recording;
 - 9 2. Will not distribute duplicate copies of the recording except for the sole
 - 10 purpose of having an expert or other professional consultant provide
 - 11 analysis to the attorney for the purposes of evaluating or preparing for an
 - 12 existing or potential court case or administrative proceeding or with an
 - 13 insurance company for the purposes of accessing claims coverage,
 - 14 settlement, or other matters involving an insurance contract;
 - 15 3. Will execute a contract with any expert, professional consultant, or
 - 16 insurance company that is provided a duplicate copy of the recording
 - 17 pursuant to this paragraph that requires the expert or professional
 - 18 consultant to be bound by the same limitations and requirements as the
 - 19 attorney for the care and custody of the recording as required by this
 - 20 paragraph;
 - 21 4. Will not allow individuals or others that are not under the attorney's
 - 22 control or supervision the ability to view the contents of the recording in
 - 23 any form except for the sole purpose of preparation for an existing or
 - 24 potential court or administrative proceeding, communications regarding
 - 25 matters related to insurance, or for the purposes of displaying the
 - 26 recording as evidence in any court or administrative proceeding;
 - 27 5. Will destroy any copy of the recording when the recording is no longer

1 used for the purposes of this section or the court or administrative
 2 proceeding has been finally adjudicated to its conclusion; and

3 6. Acknowledges that as an officer of the court, he or she may be subject to
 4 professional discipline or other legal liability for a breach of an affidavit
 5 executed under this section.

6 (2) If an attorney violates an affidavit executed under subsection (1) of this section, the
 7 public agency shall refer the matter to the Kentucky Bar Association for it to
 8 consider any appropriate action under the Kentucky Rules of Professional Conduct.
 9 The public agency may take any additional legal action against an attorney for such
 10 a violation.

11 (3) Any attorney who has been disciplined under the Rules of Professional Conduct or
 12 has otherwise been found by a court of law to have violated an affidavit executed
 13 under subsection (1) of this section shall be disqualified from making any
 14 subsequent requests for copies of recordings under the provisions of this section.

15 (4) A public agency that produces a copy of a recording pursuant to this section may
 16 treat the request for the recording as a commercial request and charge a reasonable
 17 fee for the costs of production as authorized under KRS 61.874(4)(c).

18 ➔SECTION 15. A NEW SECTION OF KENTUCKY RULES OF EVIDENCE
 19 401 TO 412 IS CREATED TO READ AS FOLLOWS:

20 **(a) Except as provided in subdivision (b) of this rule, the following evidence is not**
 21 **admissible in any civil or criminal proceeding:**

22 **(1) Evidence gathered by use of an arrest warrant or search warrant**
 23 **authorizing entry without notice that did not comply with applicable**
 24 **statutes; or**

25 **(2) Evidence gathered by use of an arrest warrant or search warrant**
 26 **authorizing entry without notice that was obtained through perjury or**
 27 **material false statement.**

1 (b) Evidence excluded in subdivision (a) of this rule is admissible if otherwise
2 admissible under these rules, and:

3 (1) In a civil case, offered by the plaintiff in an action for damages arising from
4 the warrant; or

5 (2) In a criminal proceeding for perjury or material false statement in the
6 application for the warrant, offered against the defendant.

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

9 As used in Sections 16 to 25 of this Act, unless the context otherwise requires:

10 (1) "Council" means the Kentucky Law Enforcement Council established by KRS
11 15.310 to 15.510, 15.990, and 15.992;

12 (2) "Employment information" means written information in connection with job
13 applications, performance evaluations, attendance records, disciplinary actions
14 and eligibility for rehire.

15 (3) "Final and binding disciplinary action" means disciplinary action in which a law
16 enforcement officer voluntarily accepts discipline or, in the case of appeal by the
17 disciplined officer, disciplinary action in which the appeal has been exhausted or
18 resolved by settlement agreement, arbitration, or other dispute resolution
19 mechanism.

20 (4) "Separation records" means records required to be maintained under section 7
21 of this Act.

22 ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
23 READ AS FOLLOWS:

24 (1) A prospective employing law enforcement agency shall conduct a thorough
25 background investigation on an applicant for employment as a law enforcement
26 officer, including a review of the applicant's employment information and
27 separation records, if applicable, in accordance with this chapter, before the

1 applicant may be employed. The background investigation shall determine at a
2 minimum whether the applicant meets the standards established by the council.

3 (2) The required background investigation does not prevent a law enforcement
4 agency from establishing higher standards for law enforcement employees if
5 those standards are not contrary to applicable law.

6 ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
7 READ AS FOLLOWS:

8 Upon request of a prospective employing law enforcement agency, a law enforcement
9 agency shall disclose or otherwise make available for inspection employment
10 information of an applicant who is the subject of a background investigation under
11 Sections 16 to 25 of this Act. The request for disclosure of employment information
12 must be:

13 (1) In writing;

14 (2) Accompanied by an original authorization and release signed by the applicant;
15 and

16 (3) Signed by the chief of police or other authorized representative of the prospective
17 employing law enforcement agency conducting the background investigation.

18 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
19 READ AS FOLLOWS:

20 If a law enforcement agency refuses to disclose employment information to a
21 prospective employing law enforcement agency pursuant to Section 18 of this Act, the
22 prospective employing law enforcement agency may petition the Circuit Court to issue
23 an order directing the disclosure of the employment information. The petition shall
24 include a copy of the original request for disclosure and the authorization and release
25 signed by the applicant.

26 ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
27 READ AS FOLLOWS:

1 (1) In the absence of fraud or malice, a law enforcement agency is immune from
 2 civil liability for employment information released to a prospective employing law
 3 enforcement agency in accordance with this chapter or for any subsequent
 4 publication made by the prospective employing law enforcement agency or the
 5 applicant of employment information released to a law enforcement agency
 6 under this chapter.

7 (2) (a) A law enforcement agency is not immune from civil liability for employment
 8 information released in violation of this chapter.

9 (b) An applicant adversely affected by the release of employment information in
 10 violation of this chapter may seek declarative and injunctive relief and
 11 actual and punitive damages attributable to the violation.

12 (c) The court shall award reasonable expenses, including attorney fees, court
 13 costs, and compensation for loss of income, to the applicant adversely
 14 affected if an action under paragraph (b) of this subsection results in:

15 1. A final determination by a court in favor of the law enforcement
 16 officer adversely affected; or

17 2. Rescission of the challenged release of information after suit has been
 18 filed under paragraph (2) of this section but prior to a final
 19 determination by a court.

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

22 (1) If employment information is subject to a confidentiality agreement between the
 23 applicant and a former law enforcement agency, the applicant shall disclose to
 24 the prospective employing law enforcement agency the fact that a confidentiality
 25 agreement exists.

26 (2) If the applicant has authorized the release of employment information without
 27 regard to a previous agreement to the contrary, the former law enforcement

1 agency may disclose the employment information in accordance with this
2 chapter.

3 (3) If employment information is sealed or otherwise subject to a nondisclosure order
4 by a court of competent jurisdiction, the former law enforcement agency shall
5 disclose to the prospective employing law enforcement agency the fact that a
6 nondisclosure order exists, along with information identifying the court and case
7 number.

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

10 (1) In addition to any other employment information required to be maintained, a
11 law enforcement agency shall maintain the following separation records:

12 (a) Records of the reason or reasons for, and circumstances surrounding, a
13 separation of service for a law enforcement officer on a form developed by
14 the council and made available on its publicly accessible Web site;

15 (b) Records of all criminal charges filed against a law enforcement officer;

16 (c) Records of all civil or ethical complaints made against a law enforcement
17 officer; and

18 (d) Records of the disposition of all charges and complaints, including final
19 and binding disciplinary actions, taken by the law enforcement agency
20 against a law enforcement officer, including imposition of probation or
21 other conditions related to employment.

22 (2) A law enforcement officer may review a separation record upon the request of the
23 law enforcement officer on a form developed by the council and made available
24 on the law enforcement agency's publicly accessible Web site.

25 (3) (a) If a law enforcement officer disagrees with the accuracy of the contents of a
26 separation record, the law enforcement officer may request the correction
27 or removal of the portion of the record believed to be incorrect. The request

1 must be made in writing using a form developed by the council and
2 available on the council's publicly accessible Web site. The law enforcement
3 agency shall provide written reasons for correction or removal of a portion
4 of the record, or of the refusal to do so.

5 **(b) If the law enforcement agency and the law enforcement officer cannot**
6 **reach an agreement on the contents of the record, the law enforcement**
7 **officer may submit a written statement explaining the law enforcement**
8 **officer's position and the basis for the disagreement. The statement shall be**
9 **kept with and part of the separation records required under this section and**
10 **provided with the separation records as required under Section 24 of this**
11 **Act.**

12 ➔SECTION 23. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
13 READ AS FOLLOWS:

14 **(1) The council shall establish and maintain an electronic database containing the**
15 **separation records, which shall be accessible to all law enforcement agencies in**
16 **the Commonwealth. Except as provided under Section 25 of this Act, separation**
17 **records maintained in the database shall be exempt from public disclosure**
18 **pursuant to the Kentucky Open Records Act, KRS 61.870 to 61.884.**

19 **(2) The council shall establish a procedure by which a law enforcement agency may**
20 **request and review separation records in the database for the purpose of**
21 **employing an applicant.**

22 **(3) The council shall log all requests from law enforcement agencies for separation**
23 **records and may not disclose the name of any law enforcement officer subject to**
24 **a request for separation records to the public. The information provided to a law**
25 **enforcement agency, including a law enforcement agency outside of this**
26 **Commonwealth, shall be exempt from public disclosure pursuant to the Kentucky**
27 **Open Records Act, KRS 61.870 to 61.884.**

1 (4) Upon the separation of an officer from a law enforcement agency, the law
2 enforcement agency shall submit the separation records to the council within
3 fifteen (15) days of separation.

4 (5) (a) A former employing law enforcement agency that submits a separation
5 record to the database in good faith is immune from civil liability for the
6 subsequent disclosure of that record from the database.

7 (b) A law enforcement agency is presumed to be acting in good faith at the time
8 of a disclosure under Sections 16 to 25 of this Act unless a preponderance
9 of the evidence establishes that:

10 1. The law enforcement agency knew that the separation record was
11 false or misleading;

12 2. The law enforcement agency submitted the separation record with a
13 reckless disregard for the truth; or

14 3. Submission of the separation record was specifically prohibited by
15 federal or state law.

16 ➔SECTION 24. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
17 READ AS FOLLOWS:

18 (1) An applicant shall provide to the prospective employing law enforcement agency,
19 upon an offer of employment, a signed waiver under this section allowing the
20 prospective employing law enforcement agency to contact the council to seek a
21 copy of any separation record.

22 (2) The waiver shall consist of a form developed by the council and made available
23 on the council's publicly accessible Web site.

24 (3) The prospective employing law enforcement agency shall provide the signed
25 waiver to the council.

26 (4) Upon receipt of the signed waiver, the council shall, within seven (7) days,
27 provide a copy of any separation record relating to the applicant to the

1 prospective employing law enforcement agency or certify that no separation
2 record is in the database.

3 (5) A prospective employing law enforcement agency shall not hire an applicant until
4 the prospective employing law enforcement agency receives a copy of the
5 separation record or certification of no separation record from the council.

6 ➔SECTION 25. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
7 READ AS FOLLOWS:

8 (1) If a prospective employing law enforcement agency hires an applicant whose
9 separation records includes final and binding disciplinary action, or a criminal
10 conviction, relating to any of the following, the law enforcement agency shall file
11 a report with the council that indicates the prospective employing law
12 enforcement agency's reasoning and rationale for hiring the applicant:

13 (a) Excessive force;

14 (b) Harassment;

15 (c) Theft;

16 (d) Discrimination;

17 (e) Sexual abuse;

18 (f) Sexual misconduct;

19 (g) Domestic violence;

20 (h) Coercion of a false confession;

21 (i) Filing a false report; or

22 (j) A judicial finding of dishonesty.

23 (2) A hiring report required under subsection (1) of this section shall be included in
24 the council's electronic database, and shall be subject to public disclosure
25 pursuant to the Kentucky Open Records Act, KRS 61.870 to 61.884. The hiring
26 report shall be on a form developed by the council and made available on the
27 council's publicly accessible Web site.

1 ➔Section 26. KRS 503.010 is amended to read as follows:

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

3 (1) **"Carotid restraint" means a method by which a person applies sufficient**
4 **pressure to another person's neck, throat, or windpipe to make breathing difficult**
5 **or impossible or to restrict blood flow to the brain.**

6 (2) "Deadly physical force" means force which is used with the purpose of causing
7 death or serious physical injury or which the defendant knows to create a substantial
8 risk of causing death or serious physical injury.

9 (3)~~(2)~~ "Dwelling" means a building or conveyance of any kind, including any
10 attached porch, whether the building or conveyance is temporary or permanent,
11 mobile or immobile, which has a roof over it, including a tent, and is designed to be
12 occupied by people lodging therein at night.

13 (4)~~(3)~~ "Imminent" means impending danger, and, in the context of domestic violence
14 and abuse as defined by KRS 403.720, belief that danger is imminent can be
15 inferred from a past pattern of repeated serious abuse.

16 (5)~~(4)~~ "Physical force" means force used upon or directed toward the body of another
17 person and includes confinement.

18 (6)~~(5)~~ "Residence" means a dwelling in which a person resides either temporarily or
19 permanently or is visiting as an invited guest.

20 (7)~~(6)~~ "Vehicle" means a conveyance of any kind, whether or not motorized, which
21 is designed to transport people or property.

22 ➔Section 27. KRS 503.090 is amended to read as follows:

23 (1) **Except as provided in subsection (4) of this section,** the use of physical force by a
24 defendant upon another person is justifiable when the defendant, acting under
25 official authority, is making or assisting in making an arrest, and he **or she**:

26 (a) Believes that such force is necessary to effect the arrest;

27 (b) Makes known the purpose of the arrest or believes that it is otherwise known

1 or cannot reasonably be made known to the person to be arrested; and

2 (c) Believes the arrest to be lawful.

3 (2) **Except as provided in subsection (4) of this section,** the use of deadly physical
4 force by a defendant upon another person is justifiable under subsection (1) only
5 when:

6 (a) The defendant, in effecting the arrest, is authorized to act as a peace officer;
7 and

8 (b) The arrest is for a felony involving the use or threatened use of physical force
9 likely to cause death or serious physical injury; and

10 (c) The defendant believes that the person to be arrested is likely to endanger
11 human life unless apprehended without delay.

12 (3) **Except as provided in subsection (4) of this section,** the use of physical force,
13 including deadly physical force, by a defendant upon another person is justifiable
14 when the defendant is preventing the escape of an arrested person and when the
15 force could justifiably have been used to effect the arrest under which the person is
16 in custody, except that a guard or other person authorized to act as a peace officer is
17 justified in using any force, including deadly force, which he **or she** believes to be
18 necessary to prevent the escape of a person from jail, prison, or other institution for
19 the detention of persons charged with or convicted of a crime.

20 **(4) The use of a carotid restraint by a defendant upon another person is justifiable**
21 **only when the defendant, authorized to act as a peace officer, reasonably believes**
22 **that it is necessary:**

23 **(a) To defend himself or herself or a third person from what he or she**
24 **reasonably believes to be the use or imminent use of deadly physical force**
25 **or infliction of physical injury; or**

26 **(b) To effect an arrest, or to prevent the escape from custody, of a person whom**
27 **he or she reasonably believes:**

- 1 **1. Has committed or attempted to commit a felony involving or**
- 2 **threatening the use of a deadly weapon;**
- 3 **2. Is attempting to escape by the use of physical force; or**
- 4 **3. Is likely to endanger human life or to inflict serious physical injury upon another**
- 5 **unless he or she is apprehended without delay.**

6 ➔Section 28. KRS 15.334 is amended to read as follows:

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

- 1 (c) Human immunodeficiency virus infection and acquired immunodeficiency
2 virus syndrome;
- 3 (d) Identification and investigation of, responding to, and reporting bias-related
4 crime, victimization, or intimidation that is a result of or reasonably related to
5 race, color, religion, sex, or national origin;
- 6 (e) The characteristics and dynamics of human trafficking, state and federal laws
7 relating to human trafficking, the investigation of cases involving human
8 trafficking, including but not limited to screening for human trafficking, and
9 resources for assistance to the victims of human trafficking;
- 10 (f) Beginning January 1, 2017, the council shall require that a law enforcement
11 basic training course include at least eight (8) hours of training relevant to
12 sexual assault;~~and~~
- 13 (g) Education on female genital mutilation as defined in KRS 508.125, including
14 the risk factors associated with female genital mutilation, the criminal
15 penalties for committing female genital mutilation, and the psychological and
16 health effects on a victim of female genital mutilation;
- 17 **(h) De-escalation and crisis intervention training equal to the number of hours**
18 **for deadly force training; and**
- 19 **(i) Training in executing warrants safely.**
- 20 (2) (a) The council shall develop and approve mandatory in-service training courses
21 to be presented to all certified peace officers. The council may promulgate
22 administrative regulations in accordance with KRS Chapter 13A setting forth
23 the deadlines by which all certified peace officers shall attend the mandatory
24 in-service training courses.
- 25 (b) Beginning January 1, 2017, the council shall establish a forty (40) hour sexual
26 assault investigation training course. After January 1, 2019, agencies shall
27 maintain officers on staff who have completed the forty (40) hour sexual

1 assault investigation training course in accordance with the following:

- 2 1. Agencies with more than ten (10) but fewer than twenty-one (21) full-
3 time officers shall maintain one (1) officer who has completed the forty
4 (40) hour sexual assault investigation training course;
- 5 2. Agencies with twenty-one (21) or more but fewer than fifty-one (51)
6 full-time officers shall maintain at least two (2) officers who have
7 completed the forty (40) hour sexual assault investigation training
8 course; and
- 9 3. Agencies with fifty-one (51) or more full-time officers shall maintain at
10 least four (4) officers who have completed the sexual assault
11 investigation course.
- 12 (c) An agency shall not make an officer directly responsible for the investigation
13 or processing of sexual assault offenses unless that officer has completed the
14 forty (40) hour sexual assault investigation training course.
- 15 (d) The council may, upon application by any agency, grant an exemption from
16 the training requirements set forth in paragraph (b) of this subsection if that
17 agency, by limitations arising from its scope of authority, does not conduct
18 sexual assault investigations.
- 19 (e) Any agency failing to comply with paragraph (b) or (c) of this subsection
20 shall, from the date the noncompliance commences, have one (1) year to
21 reestablish the minimum number of trained officers required.
- 22 (3) The Justice and Public Safety Cabinet shall provide training on the subjects of
23 domestic violence and abuse and may do so utilizing currently available technology.
24 All certified peace officers shall be required to complete this training at least once
25 every two (2) years.
- 26 (4) The council shall promulgate administrative regulations in accordance with KRS
27 Chapter 13A to establish mandatory basic training and in-service training courses.

1 ➔Section 29. Sections 1 to 28 of this Act shall be known and may be cited as
2 Breonna's Law.