

1 AN ACT relating to education and declaring an emergency.

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

3 ➔Section 1. All SARS-COV-2-related executive orders issued by the Governor
4 and all executive actions and administrative orders, administrative regulations, or other
5 administrative actions not specifically extended by this Act are of no further force or
6 effect as of the effective date of this Act.

7 ➔Section 2. The General Assembly hereby approves, extends, and in some cases
8 modifies as stated, the following executive orders and declares that the same shall be in
9 effect until and expire on April 14, 2022:

10 (1) 2020 Executive Order 2020-215 only to the extent necessary to:

11 (a) Secure current or future federal funding, including reimbursements, related to
12 the SARS-COV-2 virus;

13 (b) Preserve the protections and status afforded by 2021 RS SB 5, 2021 Ky. Acts
14 ch. 205; and

15 (c) Extend 2020 RS SB 150, 2020 Ky. Acts ch. 73, until April 14, 2022, to the
16 extent the provisions are not superseded by statute or administrative
17 regulation, except that Section 1(4) of 2020 RS SB 150, 2020 Ky. Acts ch. 73,
18 shall be in effect until and expire on May 15, 2022, to the extent the
19 provisions are not superseded by statute or administrative regulation;

20 (2) 2020 Executive Order 2020-220, related to health insurers waiving costs for certain
21 screening, testing, and immunizations;

22 (3) 2020 Executive Order 2020-243 only to the extent set forth herein:

23 (a) Encourages social distancing among citizens; and

24 (b) Allows state agencies to:

25 1. Encourage social distancing;

26 2. Provide and conduct services by mail, Internet, phone, and/or video
27 conferencing;

- 1 3. Extend licenses, credentials, or certificates that require in-person
- 2 appearances or education for renewal;
- 3 4. Permit education and continuing education to be satisfied online;
- 4 5. Extend deadlines for statutory or regulatory reporting; and
- 5 6. Extend deadlines for payments of fees, taxes, and assessments, and
- 6 waive late payment penalties incurred;
- 7 (4) 2020 Executive Order 2020-265, allowing retired first responders returning to work;
- 8 (5) 2020 Executive Order 2020-266, allowing retired state employees returning to
- 9 work, except the provisions in paragraphs 8 and 9;
- 10 (6) 2020 Executive Order 2020-277, providing temporary disability from certain
- 11 occupational exposures, except the provisions in paragraph 3;
- 12 (7) Notwithstanding any statutory provisions to the contrary, 2021 Executive Order
- 13 2021-665, related to price gouging;
- 14 (8) Notwithstanding any statutory provisions to the contrary, 2021 Executive Order
- 15 2021-666, related to the dispensing of pharmaceuticals; and
- 16 (9) Secretary of the Governor's Executive Cabinet Order, dated April 24, 2020, related
- 17 to the "practice of pharmacy" including initiating, ordering, and administering
- 18 certain testing.
- 19 ➔Section 3. The General Assembly hereby approves, ratifies, modifies, and
- 20 extends the following executive actions and administrative regulations issued by a
- 21 cabinet, agency, or department until April 14, 2022:
- 22 (1) Labor Cabinet Administrative Order 2020-001, dated April 10, 2020, related to the
- 23 allowing of digital signatures to facilitate workers' compensation matters;
- 24 (2) Cabinet for Health and Family Services Order, dated July 8, 2021, eliminating the
- 25 requirement of a clinician's order to administer, bill, or insure certain testing and
- 26 prohibiting cost-sharing;
- 27 (3) Education and Workforce Development Administrative Order 2020-02, dated

- 1 March 25, 2020, paragraphs 5, 7, 9, and 10 only, related to the filing of
2 unemployment claims, access to benefits, and funding the Unemployment Insurance
3 Trust Fund;
- 4 (4) Education and Workforce Development Administrative Order 2020-07, dated July
5 30, 2020, related to unemployment insurance clarification that Education and
6 Workforce Development Administrative Order 2020-02 does not supersede federal
7 law;
- 8 (5) Labor Cabinet Administrative Order 2021-02, dated May 24, 2021, related to
9 permitting auto industry employers to file electronically for unemployment
10 insurance benefits for employees with recall rights;
- 11 (6) Personnel Cabinet Memorandum No. 21-14, dated August 5, 2021, except that the
12 annual leave shall be leave only and shall not be credited for compensation;
- 13 (7) Cabinet for Health and Family Services Directive, dated August 18, 2021, related to
14 out-of-state medical providers providing certain services;
- 15 (8) Cabinet for Health and Family Services Directive, dated August 8, 2021, related to
16 certain testing waivers;
- 17 (9) The Department of Financial Institutions Guidance for conducting business during a
18 pandemic issued June 5, 2021, and any extension, but not including Section 2 of the
19 Guidance;
- 20 (10) The Department of Financial Institutions Guidance, undated, related to waiving the
21 requirement for physical signatures on U4 forms and updates on annual filings;
- 22 (11) 201 KAR 8:505E, Administration of certain immunizations;
- 23 (12) Energy and Environment Cabinet Emergency Bulletin to all solid waste
24 management facilities from the secretary of the Energy and Environment Cabinet,
25 dated March 26, 2020, related to the response to the request of the National Waste
26 and Recycling Association dated March 24, 2020, asking that the Department for
27 Environmental Protection consider granting relief or flexibility to certain

1 administrative regulations concerning the handling, storage, and disposal of solid
2 waste and recycling materials;

3 (13) Energy and Environment Cabinet Memorandum to the staff of the Department of
4 Environmental Protection, for dissemination, from the secretary of the Energy and
5 Environment Cabinet, dated March 26, 2020, related to waste water operators
6 certification;

7 (14) Energy and Environment Cabinet Memorandum to Department of Natural
8 Resources staff, for dissemination, from the secretary of the Energy and
9 Environment Cabinet, dated May 4, 2020, related to the extension of miner training
10 deadlines;

11 (15) Energy and Environment Cabinet Memorandum to the Department for Natural
12 Resources staff, for dissemination, from the secretary of the Energy and
13 Environment Cabinet, dated January 25, 2021, related to temporary master logger
14 designations and master logger designations;

15 (16) Public Protection Cabinet Order dated April 7, 2020, related to the temporary
16 suspension of the building code for hospital overflow areas;

17 (17) Department of Insurance Order, dated March 18, 2020, related to telehealth remote
18 communications and the prior relationship requirement;

19 (18) Cabinet for Health and Family Services, Office of the Secretary Order, dated April
20 6, 2020, related to Cabinet approval for a waiver if state law requirements are more
21 stringent than HHS 1135 blanket waivers; and

22 (19) Labor Cabinet Administrative Order 2020-04, dated December 15, 2020, related to
23 unemployment insurance reserve ratios for employers with 100 or fewer employees,
24 but not including section 3.

25 ➔Section 4. The General Assembly intends that the Commonwealth's boards and
26 commissions return to normal operations, especially with respect to licensing and
27 continuing education, and hereby approves, ratifies, and extends until April 14, 2022, and

1 no further, the following administrative actions issued by boards, commissions,
2 corporations, and authorities in response to the SARS-COV-2 virus, which extension will
3 give the boards and commissions listed below a period of time to transition back to
4 normal operations:

- 5 (1) Board of Veterinary Examiners Order, dated April 16, 2020, only to the extent that
6 the order fulfills the objectives of subsection (3) of Section 2 of this Act;
- 7 (2) Kentucky Applied Behavior Analysis Licensing Board Order, dated March 23,
8 2020, related to telehealth services;
- 9 (3) Kentucky Board of Alcohol and Drug Counselors Order, dated April 2, 2020,
10 related to licensure renewal deadlines;
- 11 (4) Kentucky Board of Licensed Diabetes Educators Order, dated July 21, 2020, related
12 to social distancing and telework;
- 13 (5) Kentucky Board of Licensure for Long-Term Care Administrators Orders, dated
14 May 29, 2020, and March 26, 2021, related to continuing education and licensure;
- 15 (6) Kentucky Board of Licensed Professional Counselors Order, dated April 2, 2020,
16 allowing distance counseling;
- 17 (7) Kentucky Board of Licensure for Marriage and Family Therapists Order, dated
18 March 31, 2020, allowing telework;
- 19 (8) Kentucky Board of Licensure for Occupational Therapy Order, dated March 24,
20 2020, allowing telehealth;
- 21 (9) Kentucky Board of Licensure for Private Investigators Order, dated June 10, 2020,
22 allowing a grace period for licensure;
- 23 (10) Kentucky Board of Examiners of Psychology Orders, dated March 25, 2020, June 8,
24 2020, and August 3, 2020, related to licensure, continuing education, and telehealth;
- 25 (11) Kentucky Board of Speech-Language Pathology and Audiology Orders, dated
26 March 25, 2020, and June 25, 2020, related to licensure and telehealth;
- 27 (12) Kentucky Board of Interpreters for Deaf and Hard of Hearing Order, dated April 27,

- 1 2020, related to fees, licensure, and continuing education;
- 2 (13) Kentucky Licensing Board for Specialists in Hearing Instruments Order, dated May
3 21, 2021, related to licensure and continuing education;
- 4 (14) Kentucky Board of Barbering Order, to the extent that the order fulfills the
5 objectives of subsection (3) of Section 2 of this Act;
- 6 (15) Kentucky Board of Licensure for Massage Therapy Order, dated May 11, 2020,
7 related to licensure;
- 8 (16) Board of Pharmacy Order, dated April 24, 2020, related to the suspension of
9 administrative regulations which relate to in-person work;
- 10 (17) Board of Dentistry Order, dated April 17, 2020, to the extent that the order fulfills
11 the objectives of subsection (3) of Section 2 of this Act;
- 12 (18) Board of Nursing Emergency Memoranda, dated March 5, 2021, August 26, 2020,
13 April 17, 2020, and March 27, 2020, related to clinical education, APRN licensure,
14 and temporary licensure;
- 15 (19) Board of Social Work Memorandum, dated March 30, 2020, related to licensure
16 and out-of-state practitioners;
- 17 (20) Board of Licensure for Pastoral Counselors action, dated April 24, 2020, related to
18 licensure;
- 19 (21) Board of Licensure for Dietitians and Nutritionists actions, dated March 30, 2020,
20 March 25, 2020, and October 30, 2019, related to licensure, telehealth, and
21 continuing education;
- 22 (22) Board of Durable Medical Equipment Suppliers action, dated May 19, 2020, related
23 to license renewals;
- 24 (23) Kentucky Board of Podiatry actions, dated April 13, 2021, and July 28, 2020,
25 related to a fee waiver;
- 26 (24) Board of Prosthetics, Orthotics, and Pedorthics action, dated May 26, 2020, related
27 to telehealth and continuing education;

- 1 (25) Board of Respiratory Care undated action premised on the August 18, 2021,
2 Cabinet for Health and Family Services directive, related to licensure;
- 3 (26) Board of Licensure for Professional Art Therapists action, dated May 13, 2020,
4 related to licensure;
- 5 (27) Board of Emergency Medical Services:
- 6 (a) 202 KAR 7:201, First responders;
- 7 (b) 202 KAR 7:301, EMT;
- 8 (c) 202 KAR 7:330, Requirements for examination, certification, and
9 recertification of the advanced emergency medical technician;
- 10 (d) 202 KAR 7:401, Paramedics;
- 11 (e) 202 KAR 7:501, Ambulance agency licensure;
- 12 (f) 202 KAR 7:510, Air ambulance services;
- 13 (g) 202 KAR 7:540, EMS data collection, management, and compliance;
- 14 (h) 202 KAR 7:545, License classifications;
- 15 (i) 202 KAR 7:550, Required equipment and vehicle standards;
- 16 (j) 202 KAR 7:555, Ground agencies;
- 17 (k) 202 KAR 7:560, Ground vehicle staff;
- 18 (l) 202 KAR 7:601, Training, education, and continuing education;
- 19 (m) 202 KAR 7:701, Scope of practice matters; and
- 20 (n) 202 KAR 7:801, Medical directors; and
- 21 (28) Kentucky Board of Home Inspectors action, dated August 18, 2020, related to
22 licensure.

23 ➔Section 5. The General Assembly hereby approves, ratifies, modifies, and
24 extends 803 KAR 25:305E, Workers' compensation expedited hearing pursuant to
25 occupational exposure, issued by the Department of Workers' Claims, until June 25,
26 2022.

27 ➔Section 6. The General Assembly hereby approves, ratifies, modifies, and

1 extends the following executive actions and administrative regulations issued by a
2 cabinet, agency, or department until June 28, 2022:

- 3 (1) 200 KAR 17:110E Guidelines for Kentucky Infrastructure Authority Drinking
4 Water and Wastewater Grant Program, unless it is replaced earlier by an ordinary
5 administrative regulation pursuant to KRS 13A.190, in which case it should expire
6 upon the ordinary administrative regulation becoming effective;
- 7 (2) 201 KAR 12:082E, Education requirements and school administration, unless it is
8 replaced earlier by an ordinary administrative regulation pursuant to KRS 13A.190,
9 in which case it should expire upon the ordinary administrative regulation becoming
10 effective;
- 11 (3) 803 KAR 2:330E, Occupational exposure to COVID-19;
- 12 (4) 902 KAR 2:230E, COVID-19 antibody administration center;
- 13 (5) 902 KAR 2:240E, COVID-19 test acquisition and distribution;
- 14 (6) 902 KAR 2:250E, COVID-19 vaccine storage; and
- 15 (7) 902 KAR 20:460E, Essential visitor programs; visitation guidelines for long-term
16 care facilities.

17 ➔Section 7. The General Assembly hereby approves, ratifies, modifies, and
18 extends 201 KAR 2:412E, Ordering and administering vaccinations, issued by the Board
19 of Pharmacy until July 9, 2022.

20 ➔Section 8. The General Assembly hereby approves, ratifies, modifies, and
21 extends 921 KAR 4:122E, Assistance for low-income households with water or
22 wastewater utility arrears, issued by the Department for Community Based Services
23 pursuant to KRS 13A.190, until:

- 24 (1) August 28, 2022;
- 25 (2) September 28, 2022, if the statement of consideration filing date is extended for the
26 ordinary administrative regulation; or
- 27 (3) It is replaced earlier by an ordinary administrative regulation, in which case it

1 should expire upon the ordinary administrative regulation becoming effective.

2 ➔Section 9. All executive orders, cabinet and agency orders, guidances,
3 memoranda, directives, or actions identified herein but not identified in 2021 SS HJR 1
4 shall be forwarded to the Secretary of State for posting prominently on the Secretary of
5 State's Web site.

6 ➔Section 10. Upon the expiration of a SARS-COV-2-related executive order,
7 other directive, or administrative regulation declaring an emergency or other
8 implementation of powers under KRS Chapter 39A, the Governor shall not declare a new
9 SARS-COV-2-related emergency or continue to implement any of the powers under KRS
10 Chapter 39A based upon the same or substantially similar facts and circumstances as the
11 original declaration or implementation without the prior approval of the General
12 Assembly.

13 ➔Section 11. If any suspension of statutes is included in the executive or
14 administrative actions identified herein, prior approval of the Attorney General shall be
15 obtained as required by KRS 39A.180.

16 ➔Section 12. (1) Notwithstanding any other statute or administrative
17 regulation to the contrary, a school district may temporarily assign students at the school,
18 grade, classroom, or student group level to remote instruction due to significant absences
19 of students or staff related to the COVID-19 pandemic until June 30, 2022.

20 (2) With prior authorization from the local board of education, the decision to
21 temporarily assign students to remote instruction shall be at the discretion of the
22 superintendent. The temporary assignment to remote instruction shall be no longer than is
23 necessary to alleviate student and staff absences due to COVID-19.

24 (3) Remote instruction may be provided to each school in a school district,
25 including to a particular grade, classroom, or group of students within the school, for up
26 to 10 days per school under this section. A school district shall not temporarily assign
27 every student in the district to remote instruction under this section, unless all students in

1 the school district are located in a single school facility.

2 (4) Students temporarily assigned to remote instruction shall receive at least the
3 minimum daily instruction required pursuant to KRS 158.060, which shall include the
4 content standards as provided in the Kentucky Academic Standards.

5 (5) Remote instruction provided under this section shall not be counted against
6 student attendance days authorized under a school district's approved nontraditional
7 instruction plan.

8 (6) The provisions of this section shall be retroactive to January 1, 2022.

9 ➔Section 13. (1) Notwithstanding 2021 (1st Extra. Sess.) Ky. Acts ch. 4, sec.
10 9, and notwithstanding any provision of KRS 161.605 or 161.612 to the contrary, for the
11 time period occurring on or after the effective date of this Act and until June 30, 2022, the
12 following shall apply to retirees who retired from the Teachers' Retirement System on or
13 before August 1, 2021, and who subsequently return to employment for a local board of
14 education in a full-time or part-time certified or classified position, or in a position
15 providing substitute certified or classified services:

16 (a) The separation of service required shall be a bona fide separation of at least
17 one month for retirees returning to work in a full-time, part-time, or substitute certified or
18 classified position with a local board of education. The system shall not be able to extend
19 the break in employment as provided by this paragraph unless an extension is needed due
20 to a conflict with federal law as described in subsection (4) of this section;

21 (b) The critical shortage program limitations on the number of retirees
22 reemployed under the program by a local school district as provided by KRS
23 161.605(8)(a) shall be increased to a maximum number of 10 percent of the total active
24 members employed by the local school district on a full-time basis as defined under KRS
25 161.220(21); and

26 (c) Other than the temporary adjustments provided in this subsection, all other
27 provisions of KRS 161.220 to 161.716 and 161.990 shall apply.

1 (2) The provisions of subsection (1) of this section shall expire on June 30, 2022.
2 Upon expiration of these temporary provisions, any future reemployment or ongoing
3 reemployment of retirees subject to the provisions of subsection (1) of this section shall,
4 for such future or ongoing reemployment occurring after June 30, 2022, be subject to
5 KRS 161.605, including the existing limitations on the critical shortage program, except
6 that a retiree who is reemployed according to the provisions of subsection (1) of this
7 section shall not be required to observe any additional separation of service beyond the
8 one month specified by subsection (1)(a) of this section if he or she remains employed or
9 is reemployed on or after June 30, 2022.

10 (3) Additional costs incurred to school districts under this section for the hiring of
11 critical shortage teachers to meet the educational challenges of the COVID-19 pandemic
12 are deemed a qualified expense by the General Assembly for purposes of utilizing federal
13 pandemic funds and shall be authorized for use by school districts for this purpose unless
14 in conflict with federal law.

15 (4) Any provision of subsection (1) and (2) of this section in conflict with federal
16 law as determined by the system shall be void. The school districts shall be notified of
17 any provision in conflict that is voided.

18 ➔Section 14. (1) Notwithstanding 2021 (1st Extra. Sess.) Ky. Acts ch. 4, sec.
19 10, and notwithstanding any provision of KRS 61.637 or 78.5540 to the contrary, for the
20 time period occurring on or after the effective date of this Act and until June 30, 2022, the
21 following shall apply to retirees who retired from the systems on or before August 1,
22 2021, and who subsequently return to employment for a local board of education in a full-
23 time or part-time certified or classified position, or in a position providing substitute
24 classified or certified services:

25 (a) The separation of service required shall be a bona fide separation of at least
26 one month for retirees returning to work in a full-time, substitute, or part-time certified or
27 classified position with a local board of education. The systems shall not be able to

1 extend the break in employment as provided by this paragraph unless an extension is
2 needed due to a conflict with federal law as described in subsection (3) of this section;
3 and

4 (b) Other than the temporary adjustments provided in this subsection, all other
5 provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 shall apply.

6 (2) The provisions of subsection (1) of this section shall expire on June 30, 2022.
7 Upon expiration of these temporary provisions, any future reemployment or ongoing
8 reemployment of retirees hired under the provisions of subsection (1) of this section shall,
9 for such future or ongoing reemployment occurring after June 30, 2022, be subject to
10 KRS 61.637 or 78.5540, as applicable, except that a retiree who is reemployed according
11 to the provisions of subsection (1) of this section shall not be required to observe any
12 additional separation of service beyond the one month specified by subsection (1)(a) of
13 this section if he or she remains employed or is reemployed on or after June 30, 2022.

14 (3) Any provision of this section in conflict with federal law as determined by the
15 systems shall be void. The school districts shall be notified of any provision in conflict
16 that is voided.

17 ➔Section 15. Nothing in this Act shall be interpreted to allow state agencies to
18 remain closed for regular in-person business.

19 ➔Section 16. It is not the intention of the General Assembly that this Act should
20 impair or delay the ability of the Commonwealth to receive any federal stimulus or
21 pandemic-related funds.

22 ➔Section 17. Whereas, the General Assembly desires to ensure that the school
23 children of the Commonwealth remain in school with live instruction and that the citizens
24 of the Commonwealth go about their personal and professional business to the extent
25 possible while remaining protected during the pandemic, an emergency is declared to
26 exist, and this Act takes effect upon its passage and approval by the Governor or upon its
27 otherwise becoming law.