

1 AN ACT relating to school personnel.

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

3 ➔Section 1. KRS 161.155 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Teacher" shall mean any person for whom certification is required as a basis
6 of employment in the common schools of the state;

7 (b) "Employee" shall mean any person, other than a teacher, employed in the
8 public schools, whether on a full or part-time basis;

9 (c) "Immediate family" shall mean the teacher's or employee's spouse, children
10 including stepchildren and foster children, grandchildren, daughters-in-law
11 and sons-in law, brothers and sisters, parents and spouse's parents, and
12 grandparents and spouse's grandparents, without reference to the location or
13 residence of said relative, and any other blood relative who resides in the
14 teacher's or employee's home;

15 (d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by
16 teachers or employees for use by teachers or employees who have exhausted
17 all sick leave and other available paid leave days; and

18 (e) "Assault" shall mean an act that intentionally causes injury so significant that
19 the victim is determined to be, by certification of a physician or surgeon duly
20 qualified under KRS Chapter 342, incapable of performing the duties of his or
21 her job.

22 (2) Each district board of education shall allow to each teacher and full-time employee
23 in its common school system not less than ten (10) days of sick leave during each
24 school year, without deduction of salary. Sick leave shall be granted to a teacher or
25 employee if he or she **submits a request pursuant to the district's policy or sick**
26 **leave accounting system** ~~[presents a personal affidavit or a certificate of a physician]~~
27 stating that the teacher or employee was ill, that the teacher or employee was absent

1 for the purpose of attending to a member of his or her immediate family who was
2 ill, or for the purpose of mourning a member of his or her immediate family. *The*
3 *superintendent may require a teacher or employee to submit a personal affidavit*
4 *or a certificate of a physician for use of sick leave.* The ten (10) days of sick leave
5 granted in this subsection may be taken by a teacher or employee on any ten (10)
6 days of the school year and shall be granted in addition to accumulated sick leave
7 days that have been credited to the teacher or employee under the provisions of
8 subsection (4) of this section.

9 (3) A school district shall coordinate among the income and benefits from workers'
10 compensation, temporary disability retirement, and district payroll and benefits so
11 that there is no loss of income or benefits to a teacher or employee for work time
12 lost because of an assault while performing the teacher's or employee's assigned
13 duties for a period of up to one (1) year after the assault. In the event a teacher or
14 employee suffers an assault while performing his or her assigned duties that results
15 in injuries that qualify the teacher or employee for workers' compensation benefits,
16 the district shall provide leave to the teacher or employee for up to one (1) year after
17 the assault with no loss of income or benefits under the following conditions:

18 (a) The district shall pay the salary of the teacher or employee between the time
19 of the assault and the time the teacher's or employee's workers' compensation
20 income benefits take effect, or the time the teacher or employee is certified to
21 return to work by a physician or surgeon duly qualified under KRS Chapter
22 342, whichever is sooner;

23 (b) The district shall pay, for up to one (1) year from the time of the assault, the
24 difference between the salary of the teacher or employee and any workers'
25 compensation income benefits received by the teacher or employee resulting
26 from the assault. Payments by the district shall include payments for
27 intermittent work time missed as a result of the assault during the one (1) year

1 period. If the teacher's or employee's workers' compensation income benefits
2 cease during the one (1) year period after the assault, the district shall also
3 cease to make payments under this paragraph;

4 (c) The Commonwealth, through the Kentucky Department of Education, shall
5 make the employer's health insurance contribution during the period that the
6 district makes payments under paragraphs (a) and (b) of this subsection;

7 (d) The Commonwealth, through the Kentucky Department of Education, shall
8 make the employer's contribution to the retirement system in which the
9 teacher or employee is a member during the period that the district makes
10 payments under paragraphs (a) and (b) of this subsection; and

11 (e) Payments to a teacher or employee under paragraphs (a) and (b) of this
12 subsection shall be coordinated with workers' compensation benefits under
13 KRS Chapter 342, disability retirement benefits for teachers under KRS
14 161.661 to 161.663, and disability retirement benefits for employees under
15 KRS 61.600 to 61.621 and 78.5522, 78.5524, 78.5526, 78.5528, and 78.5530
16 so that the teacher or employee receives income equivalent to his or her full
17 contracted salary, but in no event shall the combined payments exceed one
18 hundred percent (100%) of the teacher's or employee's full contracted salary.

19 (4) Days of sick leave not taken by an employee or a teacher during any school year
20 shall accumulate without limitation and be credited to that employee or teacher.
21 Accumulated sick leave may be taken in any school year. Any district board of
22 education may, in its discretion, allow employees or teachers in its common school
23 system sick leave in excess of the number of days prescribed in this section and may
24 allow school district employees and teachers to use up to three (3) days' sick leave
25 per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated
26 sick leave days credited to an employee or a teacher shall remain so credited in the
27 event he or she transfers his or her place of employment from one (1) school district

1 to another within the state or to the Kentucky Department of Education or transfers
2 from the Department of Education to a school district.

3 (5) Accumulated days of sick leave shall be granted to a teacher or employee if, prior to
4 the opening day of the school year, an affidavit or a certificate of a physician is
5 presented to the district board of education, stating that the teacher or employee is
6 unable to commence his or her duties on the opening day of the school year, but will
7 be able to assume his or her duties within a period of time that the board determines
8 to be reasonable.

9 (6) Any school teacher or employee may repurchase previously used sick leave days
10 with the concurrence of the local school board by paying to the district an amount
11 equal to the total of all costs associated with the used sick leave.

12 (7) A district board of education may adopt a plan for a sick leave bank. The plan may
13 include limitations upon the number of days a teacher or employee may annually
14 contribute to the bank and limitations upon the number of days a teacher or
15 employee may annually draw from the bank. Only those teachers or employees who
16 contribute to the bank may draw upon the bank. Days contributed will be deducted
17 from the days available to the contributing teacher or employee. The sick leave bank
18 shall be administered in accordance with a policy adopted by the board of
19 education.

20 (8) (a) A district board of education shall establish a sick leave donation program to
21 permit teachers or employees to voluntarily contribute sick leave to teachers
22 or employees in the same school district who are in need of an extended
23 absence from school. A teacher or employee who has accrued more than
24 fifteen (15) days' sick leave may request the board of education to transfer a
25 designated amount of sick leave to another teacher or employee who is
26 authorized to receive the sick leave donated. A teacher or employee may not
27 request an amount of sick leave be donated that reduces his or her sick leave

- 1 balance to less than fifteen (15) days.
- 2 (b) A teacher or employee may receive donations of sick leave if:
- 3 1. a. The teacher or employee or a member of his or her immediate
4 family suffers from a medically certified illness, injury,
5 impairment, or physical or mental condition that has caused or is
6 likely to cause the teacher or employee to be absent for at least ten
7 (10) days; or
- 8 b. The teacher or employee suffers from a catastrophic loss to his or
9 her personal or real property, due to either a natural disaster or fire,
10 that either has caused or will likely cause the employee to be
11 absent for at least ten (10) consecutive working days;
- 12 2. The teacher's or employee's need for the absence and use of leave are
13 certified by a licensed physician for leave requested under subparagraph
14 1.a. of this subsection;
- 15 3. The teacher or employee has exhausted his or her accumulated sick
16 leave, personal leave, and any other leave granted by the school district;
17 and
- 18 4. The teacher or employee has complied with the school district's policies
19 governing the use of sick leave.
- 20 (c) While a teacher or employee is on sick leave provided by this section, he or
21 she shall be considered a school district employee, and his or her salary,
22 wages, and other employee benefits shall not be affected.
- 23 (d) Any sick leave that remains unused, is not needed by a teacher or employee,
24 and will not be needed in the future shall be returned to the teacher or
25 employee donating the sick leave.
- 26 (e) The board of education shall adopt policies and procedures necessary to
27 implement the sick leave donation program.

- 1 (9) A teacher or employee may use up to thirty (30) days of sick leave following the
2 birth or adoption of a child or children. Additional days may be used when the need
3 is verified by a physician's statement.
- 4 (10) (a) After July 1, 1982, a district board of education may compensate, at the time
5 of retirement or upon the death of a member in active contributing status at the
6 time of death who was eligible to retire by reason of service, an employee or a
7 teacher, or the estate of an employee or teacher, for each unused sick leave
8 day. The rate of compensation for each unused sick leave day shall be based
9 on a percentage of the daily salary rate calculated from the employee's or
10 teacher's last annual salary, not to exceed thirty percent (30%).
- 11 (b) Except as provided in paragraph (c) of this subsection, payment for unused
12 sick leave days under this subsection shall be incorporated into the annual
13 salary of the final year of service for inclusion in the calculation of the
14 employee's or teacher's retirement allowance only at the time of his or her
15 initial retirement, provided that the member makes the regular retirement
16 contribution for members on the sick leave payment. The accumulation of
17 these days includes unused sick leave days held by the employee or teacher at
18 the time of implementation of the program.
- 19 (c) For a teacher or employee who becomes a nonuniversity member of the
20 Teachers' Retirement System on or after January 1, 2022, as provided by KRS
21 161.220, payment for unused sick leave days under this subsection shall not
22 be incorporated into the annual compensation used to calculate the teacher's or
23 employee's retirement allowance in the foundational benefit component as
24 described by KRS 161.633 but may be deposited into the nonuniversity
25 member's supplemental benefit component as provided by KRS 161.635.
- 26 (d) For a teacher or employee who begins employment with a local school district
27 on or after July 1, 2008, the maximum amount of unused sick leave days a

1 district board of education may recognize in calculating the payment of
2 compensation to the teacher or employee under this subsection shall not
3 exceed three hundred (300) days.

4 (11) Any statute to the contrary notwithstanding, employees and teachers who
5 transferred from the Department of Education to a school district, from a school
6 district to the Department of Education, or from one (1) school district to another
7 school district after July 15, 1981, shall receive credit for any unused sick leave to
8 which the employee or teacher was entitled on the date of transfer. This credit shall
9 be for the purposes set forth in subsection (10) of this section.

10 (12) The death benefit provided in subsection (10) of this section may be cited as the
11 Baughn Benefit.

12 ➔Section 2. KRS 160.380 is amended to read as follows:

13 (1) As used in this section:

14 (a) "Administrative finding of child abuse or neglect" means a substantiated
15 finding of child abuse or neglect issued by the Cabinet for Health and Family
16 Services that is:

- 17 1. Not appealed through an administrative hearing conducted in accordance
18 with KRS Chapter 13B;
- 19 2. Upheld at an administrative hearing conducted in accordance with KRS
20 Chapter 13B and not appealed to a Circuit Court; or
- 21 3. Upheld by a Circuit Court in an appeal of the results of an administrative
22 hearing conducted in accordance with KRS Chapter 13B;

23 (b) "Alternative education program" means a program that exists to meet the
24 needs of students that cannot be addressed in a traditional classroom setting
25 but through the assignment of students to alternative classrooms, centers, or
26 campuses that are designed to remediate academic performance, improve
27 behavior, or provide an enhanced learning experience. Alternative education

- 1 programs do not include career or technical centers or departments;
- 2 (c) "Clear CA/N check" means a letter from the Cabinet for Health and Family
3 Services indicating that there are no administrative findings of child abuse or
4 neglect relating to a specific individual;
- 5 (d) "Relative" means father, mother, brother, sister, husband, wife, son and
6 daughter; and
- 7 (e) "Vacancy" means any certified position opening created by the resignation,
8 dismissal, nonrenewal of contract, transfer, or death of a certified staff
9 member of a local school district, or a new position created in a local school
10 district for which certification is required. However, if an employer-employee
11 bargained contract contains procedures for filling certified position openings
12 created by the resignation, dismissal, nonrenewal of contract, transfer, or death
13 of a certified staff member, or creation of a new position for which
14 certification is required, a vacancy shall not exist, unless certified positions
15 remain open after compliance with those procedures.
- 16 (2) Except as provided in KRS 160.346, the school district personnel actions identified
17 in this section shall be carried out as follows:
- 18 (a) All appointments, promotions, and transfers of principals, supervisors,
19 teachers, and other public school employees shall be made only by the
20 superintendent of schools, who shall notify the board of the action taken. All
21 employees of the local district shall have the qualifications prescribed by law
22 and by the administrative regulations of the Kentucky Board of Education and
23 of the employing board. Supervisors, principals, teachers, and other
24 employees may be appointed by the superintendent for any school year at any
25 time after February 1 preceding the beginning of the school year. No
26 superintendent of schools shall appoint or transfer himself or herself to
27 another position within the school district;

- 1 (b) When a vacancy occurs in a local school district, the superintendent shall
2 notify the chief state school officer fifteen (15) days before the position shall
3 be filled. The chief state school officer shall keep a registry of local district
4 vacancies which shall be made available to the public. The local school
5 district shall post position openings in the local board office for public
6 viewing;
- 7 (c) When a vacancy needs to be filled in less than fifteen (15) days' time to
8 prevent disruption of necessary instructional or support services of the school
9 district, the superintendent may seek a waiver from the chief state school
10 officer. If the waiver is approved, the appointment shall not be made until the
11 person recommended for the position has been approved by the chief state
12 school officer. The chief state school officer shall respond to a district's
13 request for waiver or for approval of an appointment within two (2) working
14 days; and
- 15 (d) When a vacancy occurs in a local district, the superintendent shall conduct a
16 search to locate minority teachers to be considered for the position. The
17 superintendent shall, pursuant to administrative regulations of the Kentucky
18 Board of Education, report annually the district's recruitment process and the
19 activities used to increase the percentage of minority teachers in the district.
- 20 (3) Restrictions on employment of relatives shall be as follows:
- 21 (a) No relative of a superintendent of schools shall be an employee of the school
22 district. However, this shall not apply to a relative who is a classified or
23 certified employee of the school district for at least thirty-six (36) months
24 prior to the superintendent assuming office and who is qualified for the
25 position the employee holds. A superintendent's spouse who has previously
26 been employed in a school system may be an employee of the school district.
27 A superintendent's spouse who is employed under this provision shall not hold

- 1 a position in which the spouse supervises certified or classified employees. A
2 superintendent's spouse may supervise teacher aides and student teachers.
3 However, the superintendent shall not promote a relative who continues
4 employment under an exception of this subsection;
- 5 (b) No superintendent shall employ a relative of a school board member of the
6 district;
- 7 (c) No principal's relative shall be employed in the principal's school; and
- 8 (d) A relative that is ineligible for employment under paragraph (a), (b), or (c) of
9 this subsection may be employed as a substitute for a certified or classified
10 employee if the relative is not:
- 11 1. A regular full-time or part-time employee of the district;
 - 12 2. Accruing continuing contract status or any other right to continuous
13 employment;
 - 14 3. Receiving fringe benefits other than those provided other substitutes or
15 4. Receiving preference in employment or assignment over other
16 substitutes.
- 17 (4) No superintendent shall assign a certified or classified staff person to an alternative
18 education program as part of any disciplinary action taken pursuant to KRS 161.011
19 or 161.790 as part of a corrective action plan established pursuant to the local
20 district evaluation plan.
- 21 (5) No superintendent shall initially employ in any position in the district any person
22 who is a violent offender or has been convicted of a sex crime as defined by KRS
23 17.165 which is classified as a felony or persons with an administrative finding of
24 child abuse or neglect in records maintained by the Cabinet for Health and Family
25 Services. The superintendent may employ, at his discretion, except at a Kentucky
26 Educational Collaborative for State Agency Children program, persons convicted of
27 sex crimes classified as a misdemeanor.

1 (6) Requirements for background checks shall be as follows:

2 (a) A superintendent shall require the following individuals to submit to a
3 national and state criminal background check by the Department of Kentucky
4 State Police and the Federal Bureau of Investigation and have a clear CA/N
5 check, provided by the individual:

- 6 1. Each new certified or classified hire;
- 7 2. A nonfaculty coach or nonfaculty assistant as defined under KRS
8 161.185;
- 9 3. A student teacher;
- 10 4. A school-based decision making council parent member; and
- 11 5. Any adult who is permitted access to school grounds on a regularly
12 scheduled and continuing basis pursuant to a written agreement for the
13 purpose of providing services directly to a student or students as part of
14 a school-sponsored program or activity;

- 15 (b) 1. The requirements of paragraph (a) of this subsection shall not apply to:
- 16 a. Classified and certified individuals employed by the school district
17 prior to June 27, 2019; ~~{or}~~
 - 18 b. Certified individuals who were employed in another certified
19 position in a Kentucky school district within six (6) months of the
20 date of hire and who had previously submitted to a national and
21 state criminal background check and who have a clear CA/N check
22 for the previous employment; or
 - 23 c. Student teachers who have, within the last six (6) months,
24 submitted to a national and state criminal background check by
25 the Department of Kentucky State Police and the Federal
26 Bureau of Investigation through an accredited teacher education
27 institution and have a clear CA/N check.

- 1 2. The Education Professional Standards Board may promulgate
2 administrative regulations to impose additional qualifications to meet
3 the requirements of Public Law 92-544;
- 4 (c) A parent member may serve prior to the receipt of the criminal history
5 background check and CA/N letter required by paragraph (a) of this
6 subsection but shall be removed from the council on receipt by the school
7 district of a report documenting a record of abuse or neglect, or a sex crime or
8 criminal offense against a victim who is a minor as defined in KRS 17.500, or
9 as a violent offender as defined in KRS 17.165, and no further procedures
10 shall be required; and
- 11 (d) A superintendent may require a volunteer or a visitor to submit to a national
12 and state criminal history background check by the Department of Kentucky
13 State Police and the Federal Bureau of Investigation and have a clear CA/N
14 check, provided by the individual.
- 15 (7) (a) If a certified or classified position remains unfilled after July 31 or if a
16 vacancy occurs during a school term, a superintendent may employ an
17 individual, who will have supervisory or disciplinary authority over minors,
18 on probationary status pending receipt of the criminal history background
19 check and a clear CA/N check, provided by the individual. Application for the
20 criminal record and a request for a clear CA/N check of a probationary
21 employee shall be made no later than the date probationary employment
22 begins.
- 23 (b) Employment shall be contingent on the receipt of the criminal history
24 background check documenting that the probationary employee has no record
25 of a sex crime nor as a violent offender as defined in KRS 17.165 and receipt
26 of a letter, provided by the individual, from the Cabinet for Health and Family
27 Services stating the employee is clear to hire based on no administrative

1 findings of child abuse or neglect found through a background check of child
2 abuse and neglect records maintained by the Cabinet for Health and Family
3 Services.

4 (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary,
5 probationary employment under this section shall terminate on receipt by the
6 school district of a criminal history background check documenting a record
7 of a sex crime or as a violent offender as defined in KRS 17.165 and no
8 further procedures shall be required.

9 (8) The provisions of KRS 161.790 shall apply to terminate employment of a certified
10 employee on the basis of a criminal record other than a record of a sex crime or as a
11 violent offender as defined in KRS 17.165, or on the basis of a CA/N check
12 showing an administrative finding of child abuse or neglect.

13 (9) (a) All fingerprints requested under this section shall be on an applicant
14 fingerprint card provided by the Department of Kentucky State Police. The
15 fingerprint cards shall be forwarded to the Federal Bureau of Investigation
16 from the Department of Kentucky State Police after a state criminal
17 background check is conducted. The results of the state and federal criminal
18 background check shall be sent to the hiring superintendent. Any fee charged
19 by the Department of Kentucky State Police, the Federal Bureau of
20 Investigation, and the Cabinet for Health and Family Services shall be an
21 amount no greater than the actual cost of processing the request and
22 conducting the search.

23 (b) Each application form, provided by the employer to an applicant for a certified
24 or classified position, shall conspicuously state the following: "FOR THIS
25 TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND
26 STATE CRIMINAL HISTORY BACKGROUND CHECK AND A LETTER,
27 PROVIDED BY THE INDIVIDUAL, FROM THE CABINET FOR HEALTH

1 AND FAMILY SERVICES STATING THE APPLICANT HAS NO
2 ADMINISTRATIVE FINDINGS OF CHILD ABUSE OR NEGLECT
3 FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND
4 NEGLECT RECORDS MAINTAINED BY THE CABINET FOR HEALTH
5 AND FAMILY SERVICES."

- 6 (c) Each application form for a district position shall require the applicant to:
- 7 1. Identify the states in which he or she has maintained residency,
8 including the dates of residency; and
 - 9 2. Provide picture identification.

10 (10) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary,
11 when an employee of the school district is charged with any offense which is
12 classified as a felony, the superintendent may transfer the employee to a second
13 position until such time as the employee is found not guilty, the charges are
14 dismissed, the employee is terminated, or the superintendent determines that further
15 personnel action is not required. The employee shall continue to be paid at the same
16 rate of pay he or she received prior to the transfer. If an employee is charged with an
17 offense outside of the Commonwealth, this provision may also be applied if the
18 charge would have been treated as a felony if committed within the Commonwealth.
19 Transfers shall be made to prevent disruption of the educational process and district
20 operations and in the interest of students and staff and shall not be construed as
21 evidence of misconduct.

22 (11) Notwithstanding any law to the contrary, each certified and classified employee of
23 the school district shall notify the superintendent if he or she has been found by the
24 Cabinet for Health and Family Services to have abused or neglected a child, and if
25 he or she has waived the right to appeal a substantiated finding of child abuse or
26 neglect or if the substantiated incident was upheld upon appeal. Any failure to
27 report this finding shall result in the certified or classified employee being subject to

- 1 dismissal or termination.
- 2 (12) The form for requesting a CA/N check shall be made available on the Cabinet for
- 3 Health and Family Services Web site.