

1 AN ACT relating to criminal offenses committed during a declared emergency.

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

3 ➔Section 1. KRS 511.020 is amended to read as follows:

- 4 (1) A person is guilty of burglary in the first degree when, with the intent to commit a
5 crime, he **or she** knowingly enters or remains unlawfully in a building, and when in
6 effecting entry or while in the building or in the immediate flight therefrom, he **or**
7 **she** or another participant in the crime:
- 8 (a) Is armed with explosives or a deadly weapon;~~[or]~~
- 9 (b) Causes physical injury to any person who is not a participant in the crime; or
- 10 (c) Uses or threatens the use of a dangerous instrument against any person who is
11 not a participant in the crime.

- 12 (2) Burglary in the first degree is a Class B felony, **unless the offense occurs during a**
13 **declared emergency as defined by KRS 39A.020 and within the area covered by**
14 **the emergency declaration, in which case it is a Class A felony.**

15 ➔Section 2. KRS 511.030 is amended to read as follows:

- 16 (1) A person is guilty of burglary in the second degree when, with the intent to commit
17 a crime, he **or she** knowingly enters or remains unlawfully in a dwelling.
- 18 (2) Burglary in the second degree is a Class C felony, **unless the offense occurs during**
19 **a declared emergency as defined by KRS 39A.020 and within the area covered by**
20 **the emergency declaration, in which case it is a Class B felony.**

21 ➔Section 3. KRS 511.040 is amended to read as follows:

- 22 (1) A person is guilty of burglary in the third degree when, with the intent to commit a
23 crime, he **or she** knowingly enters or remains unlawfully in a building.
- 24 (2) Burglary in the third degree is a Class D felony, **unless the offense occurs during a**
25 **declared emergency as defined by KRS 39A.020 and within the area covered by**
26 **the emergency declaration, in which case it is a Class C felony.**

27 ➔Section 4. KRS 514.030 is amended to read as follows:

- 1 (1) Except as otherwise provided in KRS 217.181, a person is guilty of theft by
 2 unlawful taking or disposition when he or she unlawfully:
- 3 (a) Takes or exercises control over movable property of another with intent to
 4 deprive him or her thereof; or
- 5 (b) Obtains immovable property of another or any interest therein with intent to
 6 benefit himself or herself or another not entitled thereto.
- 7 (2) Theft by unlawful taking or disposition is a Class B misdemeanor unless:
- 8 (a) The property is a firearm (regardless of the value of the firearm), in which
 9 case it is a Class D felony;
- 10 (b) The property is anhydrous ammonia (regardless of the value of the ammonia),
 11 in which case it is a Class D felony unless it is proven that the person violated
 12 this section with the intent to manufacture methamphetamine in violation of
 13 KRS 218A.1432, in which case it is a Class B felony for the first offense and a
 14 Class A felony for each subsequent offense;
- 15 (c) The property is one (1) or more controlled substances valued collectively at
 16 less than ten thousand dollars (\$10,000), in which case it is a Class D felony;
- 17 (d) The value of the property is three hundred dollars (\$300) or more and the
 18 theft occurred during a declared emergency as defined by KRS 39A.020 and
 19 within the area covered by the emergency declaration, in which case it is a
 20 Class D felony;
- 21 (e) The value of the property is five hundred dollars (\$500) or more but less than
 22 one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;
- 23 ~~(f)(e)~~ The value of the property is one thousand dollars (\$1,000) or more but
 24 less than ten thousand dollars (\$10,000), in which case it is a Class D felony;
- 25 ~~(g)(f)~~ The person has three (3) or more convictions under paragraph ~~(e)(d)~~ of
 26 this subsection within the last five (5) years, in which case it is a Class D
 27 felony. The five (5) year period shall be measured from the dates on which the

1 offenses occurred for which the judgments of conviction were entered;

2 ~~(h)~~~~(g)~~ The value of the property is ten thousand dollars (\$10,000) or more but
3 less than one million dollars (\$1,000,000), in which case it is a Class C felony;

4 ~~(i)~~~~(h)~~ The value of the property is one million dollars (\$1,000,000) or more but
5 less than ten million dollars (\$10,000,000), in which case it is a Class B
6 felony; or

7 ~~(j)~~~~(i)~~ The value of the property is ten million dollars (\$10,000,000) or more,
8 in which case it is a Class B felony.

9 (3) Any person convicted under subsection (2)~~(j)~~~~(i)~~ of this section shall not be
10 released on probation or parole until he or she has served at least fifty percent (50%)
11 of the sentence imposed, any statute to the contrary notwithstanding.

12 (4) If any person commits two (2) or more separate offenses of theft by unlawful taking
13 or disposition within ninety (90) days, the offenses may be combined and treated as
14 a single offense, and the value of the property in each offense may be aggregated for
15 the purpose of determining the appropriate charge.

16 ➔Section 5. KRS 514.110 is amended to read as follows:

17 (1) A person is guilty of receiving stolen property when he or she receives, retains, or
18 disposes of movable property of another knowing that it has been stolen, or having
19 reason to believe that it has been stolen, unless the property is received, retained, or
20 disposed of with intent to restore it to the owner.

21 (2) The possession by any person of any recently stolen movable property shall be
22 prima facie evidence that such person knew such property was stolen.

23 (3) Receiving stolen property is a Class B misdemeanor unless:

24 (a) **The value of the property is three hundred dollars (\$300) or more and the**
25 **theft occurred during a declared emergency as defined by KRS 39A.020 and**
26 **within the area covered by the emergency declaration, in which case it is a**
27 **Class D felony;**

1 **(b)** The value of the property is five hundred dollars (\$500) or more but less than
2 one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;

3 ~~(c)(b)~~ The value of the property is one thousand dollars (\$1,000) or more but
4 less than ten thousand dollars (\$10,000), in which case it is a Class D felony;

5 ~~(d)(e)~~ A person has three (3) or more convictions under paragraph ~~(b)(a)~~ of
6 this subsection within the last five (5) years, in which case it is a Class D
7 felony. The five (5) year period shall be measured from the dates on which the
8 offenses occurred for which the judgments of conviction were entered;

9 ~~(e)(d)~~ The value of the property is ten thousand dollars (\$10,000) or more, in
10 which case it is a Class C felony;

11 ~~(f)(e)~~ The property is a firearm, regardless of the value of the firearm, in which
12 case it is a Class D felony; or

13 ~~(g)(f)~~ The property is anhydrous ammonia, regardless of the value of the
14 ammonia, in which case it is a Class D felony unless it is proven that the
15 person violated this section with the intent to manufacture methamphetamine
16 in violation of KRS 218A.1432, in which case it is a Class B felony for the
17 first offense and a Class A felony for each subsequent offense.

18 (4) If any person commits two (2) or more separate offenses of receiving stolen
19 property within ninety (90) days, the offenses may be combined and treated as a
20 single offense, and the value of the property in each offense may be aggregated for
21 the purpose of determining the appropriate charge.

22 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO
23 READ AS FOLLOWS:

24 **(1) Notwithstanding KRS 431.066 and 431.520, a person shall not be released within**
25 **twelve (12) hours of the time of arrest when he or she has been charged with a**
26 **violation of Section 1, 2, 3, 4, or 5 of this Act when the offense occurred during a**
27 **declared emergency as defined by KRS 39A.020 and within the area covered by**

1 the emergency declaration, except as provided in subsection (2) of this section;
2 (2) (a) The court may release the defendant in less than twelve (12) hours if the
3 official finds that the defendant is not likely to immediately resume the
4 criminal behavior based on the circumstances of the arrest and the
5 defendant's prior criminal history.
6 (b) The findings of the court shall be reduced to writing. The written findings
7 shall be preserved as a permanent part of the record. The arresting officer
8 shall make official note of the time of the arrest in order to establish the
9 beginning of the twelve (12) hour period required by this section.