

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2024 REGULAR SESSION
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Amend printed copy of **HB 320/GA**

On page 5, after line 21, insert:

"➔Section 4. KRS 61.103 is amended to read as follows:

As used in this section, unless the context otherwise requires:

- (1) (a) "Disclosure" means a person acting on his own behalf, or on behalf of another, who reported or is about to report, either verbally or in writing, any matter set forth in KRS 61.102.
- (b) "Contributing factor" means any factor which, alone or in connection with other factors, tends to affect in any way the outcome of a decision. It shall be presumed there existed a "contributing factor" if the official taking the action knew or had constructive knowledge of the disclosure and acted within a limited period of time so that a reasonable person would conclude the disclosure was a factor in the personnel action.
- (2) Notwithstanding the administrative remedies granted by KRS Chapters 16, 18A, 78, 90, 95, 156, and other chapters of the Kentucky Revised Statutes, employees alleging a violation of KRS 61.102(1) or (2) may bring a civil action for appropriate injunctive relief or punitive damages, or both, within one (1) year~~[ninety (90) days]~~ after the occurrence of the alleged violation. The action may be filed in the Circuit Court for the county where the alleged violation occurred, the county where the complainant resides, or the county where

Amendment No. SFA 1

Rep. Sen. David Yates

Committee Amendment

Signed:

Floor Amendment

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

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the person against whom the civil complaint is filed resides or has his principal place of business.

- (3) Employees filing court actions under the provisions of subsection (2) of this section shall show by a preponderance of evidence that the disclosure was a contributing factor in the personnel action. Once a prima facie case of reprisal has been established and disclosure determined to be a contributing factor to the personnel action, the burden of proof shall be on the agency to prove by clear and convincing evidence that the disclosure was not a material fact in the personnel action.
- (4) Any employee who testifies in an official proceeding shall be afforded the same protections and rights as the employee who makes a disclosure as set forth in KRS 61.102.

➔Section 5. KRS 61.990 is amended to read as follows:

- (1) Any person who exercises any of the functions of a nonelective peace officer or deputy peace officer in violation of the provisions of KRS 61.300 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or imprisoned in the county jail for not more than six (6) months, or both.
- (2) Any person who violates any of the provisions of KRS 61.360 shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) or be imprisoned not less than ten (10) days nor more than sixty (60) days, or both.
- (3) Any person who willfully violates the provisions of KRS 61.102(1) shall be guilty of a Class A misdemeanor.
- (4) A court, in rendering a judgment in an action filed under KRS 61.102 and 61.103, shall order, as it considers appropriate, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, **damages for emotional distress**, exemplary or punitive damages, or any combination thereof. A court may also award the complainant all or a portion of the costs of litigation, including reasonable

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attorney fees and witness fees."