

1 AN ACT relating to controlled substances.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) As used in Sections 1 to 3 of this Act:*

6 *(a) "Commissioner" means the commissioner of the Department for Public*  
7 *Health;*

8 *(b) "Department" means the Department for Public Health; and*

9 *(c) "Harm reduction center" means a community-based resource offering*  
10 *services which may include but are not limited to health screening, syringe*  
11 *support, drug checking, disease prevention, recovery assistance, and*  
12 *overdose prevention services where persons may safely consume*  
13 *preobtained substances.*

14 *(2) Within six (6) months after the effective date of this Act, the department shall*  
15 *establish a program to prevent drug overdoses through the use of harm reduction*  
16 *centers.*

17 *(3) Harm reduction centers established pursuant to Sections 1 to 3 of this Act shall*  
18 *be operated by a local health department. The legislative body of the county,*  
19 *urban-county government, or consolidated local government in which the*  
20 *program will operate shall approve the:*

21 *(a) Opening and operation of the proposed harm reduction center;*

22 *(b) Location of the proposed harm reduction center; and*

23 *(c) Hours of operation of the proposed harm reduction center.*

24 *(4) Each harm reduction center established pursuant to Sections 1 to 3 of this Act*  
25 *shall provide the necessary health care professionals to prevent overdose,*  
26 *referrals for counseling, or other medical treatment that may be appropriate for*  
27 *persons utilizing the harm reduction center.*

1 (5) A harm reduction center established pursuant to Sections 1 to 3 of this Act may,  
2 in cooperation with a Kentucky public university college or school of medicine,  
3 provide drug and substance checking services. An agency offering services under  
4 this subsection shall:

5 (a) Offer voluntary testing of any substance which may be a controlled  
6 substance or psychoactive substance to ascertain the composition and likely  
7 identity of the drug or substance;

8 (b) Advise the individual who presented a drug or substance for checking of the  
9 outcome of the testing;

10 (c) Provide accurate and appropriate information and harm reduction advice to  
11 help individuals make informed decisions about drug and substance use;  
12 and

13 (d) After the testing is concluded:

14 1. Return the drug or substance to the individual who presented it for  
15 checking; or

16 2. Dispose of, or arrange for the disposal of, any drug or substance  
17 surrendered by any individual for disposal.

18 (6) The commissioner shall promulgate regulations in accordance with KRS Chapter  
19 13A to implement the program established by Sections 1 to 3 of this Act.

20 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO  
21 READ AS FOLLOWS:

22 (1) There is hereby established an advisory committee to advise the commissioner on  
23 the administrative regulations necessary to effectuate the purpose of Sections 1 to  
24 3 of this Act. The advisory committee shall be chaired by the commissioner, or the  
25 commissioner's designee, and shall consist of the following additional members:

26 (a) The commissioner of the Department for Behavioral Health, Developmental  
27 and Intellectual Disabilities, or his or her designee;

- 1        (b) The dean of the University of Kentucky College of Social Work, or his or  
2                her designee;
- 3        (c) The dean of the University of Louisville Raymond A. Kent School of Social  
4                Work and Family Science, or his or her designee; and
- 5        (d) Three (3) members appointed by the Governor as follows:
- 6                1. A physician certified by the American Society of Addiction Medicine;  
7                        and
- 8                2. Two (2) persons in recovery from a substance use disorder defined in  
9                        the most recent version of the Diagnostic and Statistical Manual of  
10                        Mental Disorders.
- 11        (2) The advisory committee shall make recommendations to the commissioner on:
- 12                (a) Ways to maximize the potential public health and safety benefits of harm  
13                        reduction centers;
- 14                (b) The proper disposal of hypodermic needles and syringes;
- 15                (c) The recovery of persons utilizing such harm reduction centers;
- 16                (d) Federal, state, and local laws impacting the creation and operation of the  
17                        harm reduction centers;
- 18                (e) Appropriate guidance to relevant professional licensing boards;
- 19                (f) Potential collaboration with other public health efforts;
- 20                (g) Consideration of any other factors beneficial to promoting the public health  
21                        and safety; and
- 22                (h) Liability protection for property owners and harm reduction center staff,  
23                        volunteers, and participants from criminal or civil liability resulting from  
24                        the operation of a harm reduction center.
- 25        (3) The commissioner shall promulgate administrative regulations authorized by  
26                Sections 1 to 3 of this Act no later than six (6) months after the effective date of  
27                this Act.

1           ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO  
2 READ AS FOLLOWS:

3 *Notwithstanding any other law to the contrary, a person or entity, including but not*  
4 *limited to a property owner, manager, employee, volunteer, client, or participant, and a*  
5 *state, city, or county government employee acting in the course and scope of*  
6 *employment, shall not:*

7 *(1) Be arrested, charged, or prosecuted pursuant to KRS Chapter 218A or KRS*  
8 *506.120;*

9 *(2) Have his or her property subject to forfeiture;*

10 *(3) Be subject to any civil or administrative penalty, including but not limited to*  
11 *disciplinary action by a professional licensing board, credentialing restrictions,*  
12 *contractual or civil liability, or medical staff or other employment action; or*

13 *(4) Be denied any right or privilege for actions, conduct, or omissions;*  
14 *relating to the approval or operation of a harm reduction center in compliance with*  
15 *Sections 1 to 3 of this Act and any administrative regulations promulgated pursuant to*  
16 *Sections 1 to 3 of this Act.*

17           ➔Section 4. KRS 218A.1415 is amended to read as follows:

18 (1) A person is guilty of possession of a controlled substance in the first degree when  
19 he or she knowingly and unlawfully possesses:

20 (a) A controlled substance that is classified in Schedules I or II and is a narcotic  
21 drug;

22 (b) A controlled substance analogue;

23 (c) Methamphetamine;

24 (d) Lysergic acid diethylamide;

25 (e) Phencyclidine;

26 (f) Gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of  
27 isomers, and analogues; or

- 1 (g) Flunitrazepam, including its salts, isomers, and salts of isomers.
- 2 (2) Possession of a controlled substance in the first degree is *punishable by up to*  
 3 *fifteen (15) hours of community service and evidence-based educational*  
 4 *programming for reducing problematic substance use which has been approved*  
 5 *by the Division of Behavioral Health within the Department for Behavioral*  
 6 *Health, Developmental and Intellectual Disabilities*~~[a Class D felony subject to the~~  
 7 ~~following provisions:~~
- 8 ~~(a) The maximum term of incarceration shall be no greater than three (3) years,~~  
 9 ~~notwithstanding KRS Chapter 532;~~
- 10 ~~(b) For a person's first or second offense under this section, he or she may be~~  
 11 ~~subject to a period of:~~
- 12 1. ~~Deferred prosecution pursuant to KRS 218A.14151; or~~  
 13 2. ~~Presumptive probation;~~
- 14 ~~(c) Deferred prosecution under paragraph (b) of this subsection shall be the~~  
 15 ~~preferred alternative for a first offense; and~~
- 16 ~~(d) If a person does not enter a deferred prosecution program for his or her first or~~  
 17 ~~second offense, he or she shall be subject to a period of presumptive~~  
 18 ~~probation, unless a court determines the defendant is not eligible for~~  
 19 ~~presumptive probation as defined in KRS 218A.010].~~

20 ➔Section 5. KRS 218A.1416 is amended to read as follows:

- 21 (1) A person is guilty of possession of a controlled substance in the second degree  
 22 when he or she knowingly and unlawfully possesses: a controlled substance  
 23 classified in Schedules I or II which is not a narcotic drug; or specified in KRS  
 24 218A.1415; or a controlled substance classified in Schedule III; but not synthetic  
 25 drugs, salvia, or marijuana.
- 26 (2) Possession of a controlled substance in the second degree is *punishable by up to*  
 27 *fifteen (15) hours of community service and evidence-based educational*

1        *programming for reducing problematic substance use which has been approved*  
2        *by the Division of Behavioral Health within the Department for Behavioral*  
3        *Health, Developmental and Intellectual Disabilities*~~[a Class A misdemeanor].~~

4        ➔Section 6. KRS 218A.1417 is amended to read as follows:

5        (1) A person is guilty of possession of a controlled substance in the third degree when  
6        he or she knowingly and unlawfully possesses a controlled substance classified in  
7        Schedules IV or V.

8        (2) Possession of a controlled substance in the third degree is *punishable by up to*  
9        *fifteen (15) hours of community service and evidence-based educational*  
10       *programming for reducing problematic substance use which has been approved*  
11       *by the Division of Behavioral Health within the Department for Behavioral*  
12       *Health, Developmental and Intellectual Disabilities*~~[a Class A misdemeanor].~~

13       ➔Section 7. KRS 218A.1422 (Effective until January 1, 2025) is amended to read  
14       as follows:

15       (1) A person is guilty of possession of marijuana when he or she knowingly and  
16       unlawfully possesses marijuana.

17       (2) Possession of marijuana is *punishable by up to fifteen (15) hours of community*  
18       *service and evidence-based educational programming for reducing problematic*  
19       *substance use which has been approved by the Division of Behavioral Health*  
20       *within the Department for Behavioral Health, Developmental and Intellectual*  
21       *Disabilities*~~[a Class B misdemeanor, except that, KRS Chapter 532 to the contrary~~  
22       ~~notwithstanding, the maximum term of incarceration shall be no greater than forty-~~  
23       ~~five (45) days].~~

24       ➔Section 8. KRS 218A.1422 (Effective January 1, 2025) is amended to read as  
25       follows:

26       (1) A person is guilty of possession of marijuana when he or she knowingly and  
27       unlawfully possesses marijuana, and the possession is not in compliance with, or

1 otherwise authorized by, KRS Chapter 218B.

2 (2) Possession of marijuana is *punishable by up to fifteen (15) hours of community*  
3 *service and evidence-based educational programming for reducing problematic*  
4 *substance use which has been approved by the Division of Behavioral Health*  
5 *within the Department for Behavioral Health, Developmental and Intellectual*  
6 *Disabilities*~~[a Class B misdemeanor, except that, KRS Chapter 532 to the contrary~~  
7 ~~notwithstanding, the maximum term of incarceration shall be no greater than forty-~~  
8 ~~five (45) days].~~

9 (3) This section does not apply to:

- 10 (a) A cannabis business or a cannabis business agent, as defined in KRS  
11 218B.010, when acting in compliance with KRS Chapter 218B; or  
12 (b) A cardholder, as defined in KRS 218B.010, whose use of medicinal cannabis  
13 is in compliance with KRS Chapter 218B.

14 ➔Section 9. KRS 218A.1430 is amended to read as follows:

- 15 (1) (a) A person is guilty of trafficking in synthetic drugs when he or she knowingly  
16 and unlawfully traffics in synthetic drugs.  
17 (b) Trafficking in synthetic drugs is a Class D felony for the first offense and a  
18 Class C felony for each subsequent offense.  
19 (c) In lieu of the fine amounts otherwise allowed under KRS Chapter 534, for any  
20 offense under this subsection the court may impose a maximum fine of double  
21 the defendant's gain from the commission of the offense, in which case any  
22 fine money collected shall be divided between the same parties, in the same  
23 ratio, and for the same purposes as established for forfeited property under  
24 KRS 218A.420.  
25 (d) It shall be an affirmative defense to an offense under this subsection that the  
26 defendant committed the offense during the course of the defendant's  
27 employment as an employee of a retail store and that the defendant did not

1 know and should not have known that the trafficked substance was a synthetic  
2 drug.

3 (2) (a) A person is guilty of possession of synthetic drugs when he or she knowingly  
4 and unlawfully possesses synthetic drugs.

5 (b) Possession of synthetic drugs is **punishable by up to fifteen (15) hours of**  
6 **community service and evidence-based educational programming for**  
7 **reducing problematic substance use which has been approved by the**  
8 **Division of Behavioral Health within the Department for Behavioral**  
9 **Health, Developmental and Intellectual Disabilities**;

10 1. — A Class A misdemeanor for the first offense; and

11 2. — A Class D felony for each subsequent offense].

12 ➔Section 10. KRS 218A.275 is amended to read as follows:

13 (1) **The Department of Pretrial Services shall employ or contract with persons**  
14 **authorized to diagnose substance use disorders, and shall** [A court may request the

15 Division of Probation and Parole to] perform a risk and needs assessment for any  
16 person **charged with** [found guilty of] possession of a controlled substance pursuant  
17 to KRS 218A.1415, 218A.1416, [or] 218A.1417, **218A.1422, or 218A.1430.** **If the**

18 **person is diagnosed with any substance use disorder defined in the most recent**  
19 **version of the Diagnostic and Statistical Manual of Mental Disorders,** the

20 assessor shall make a recommendation to the court as to whether treatment is  
21 indicated by the assessment, and, if so, the most appropriate **level and modality of**

22 treatment or recovery program environment. If treatment is indicated for the person,  
23 **unless the court makes a written finding that the recommended treatment would**

24 **not be in the public interest,** the court **shall** [may] order him or her to the  
25 appropriate treatment or recovery program that will effectively respond to the

26 person's level of risk, criminal risk factors, and individual characteristics as  
27 designated by the secretary of the Cabinet for Health and Family Services where a

1 program of treatment or recovery not to exceed one (1) year in duration may be  
2 prescribed. The person ordered to the designated treatment or recovery program  
3 shall present himself or herself for registration and initiation of the treatment or  
4 recovery program within five (5) days of the date of sentencing. If, without good  
5 cause, the person fails to appear at the designated treatment or recovery program  
6 within the specified time, or if at any time during the program of treatment or  
7 recovery prescribed, the authorized director of the treatment or recovery program  
8 finds that the person is unwilling to participate in his or her treatment, the director  
9 shall notify the sentencing court. Upon receipt of notification, the court shall cause  
10 the person to be brought before it and may continue the order of treatment, or may  
11 rescind the treatment order and impose a sentence for the possession offense. Upon  
12 discharge of the person from the treatment or recovery program by the secretary of  
13 the Cabinet for Health and Family Services, or his or her designee, prior to the  
14 expiration of the one (1) year period or upon satisfactory completion of one (1) year  
15 of treatment, the person shall be deemed finally discharged from sentence. The  
16 secretary, or his or her designee, shall notify the sentencing court of the date of such  
17 discharge from the treatment or recovery program.

18 (2) The secretary of the Cabinet for Health and Family Services, or his or her designee,  
19 shall inform each court of the identity and location of the treatment or recovery  
20 program to which the person is sentenced.

21 (3) Transportation to an inpatient facility shall be provided by order of the court when  
22 the court finds the person unable to convey himself or herself to the facility within  
23 five (5) days of sentencing by reason of physical infirmity or financial incapability.

24 (4) The sentencing court shall immediately notify the designated treatment or recovery  
25 program of the sentence and its effective date.

26 (5) The secretary for health and family services, or his or her designee, may authorize  
27 transfer of the person from the initially designated treatment or recovery program to

1 another treatment or recovery program for therapeutic purposes. The sentencing  
2 court shall be notified of termination of treatment by the terminating treatment or  
3 recovery program and shall be notified by the secretary of the new treatment or  
4 recovery program to which the person was transferred.

5 (6) Responsibility for payment for treatment services rendered to persons pursuant to  
6 this section shall be as under the statutes pertaining to payment of patients and  
7 others for services rendered by the Cabinet for Health and Family Services, unless  
8 the person and the treatment or recovery program shall arrange otherwise.

9 (7) None of the provisions of this section shall be deemed to preclude the court from  
10 exercising its usual discretion with regard to ordering probation or conditional  
11 discharge.

12 (8) ~~Except as provided in subsection (12) of this section, In the case of any person~~  
13 ~~who has been convicted [for the first time] of possession of controlled substances,~~  
14 ~~the court may set aside and void the conviction upon satisfactory completion of~~  
15 ~~treatment, probation, or other sentence, and issue to the person a certificate to that~~  
16 ~~effect. A conviction voided under this subsection shall not be deemed [a first~~  
17 ~~offense for purposes of this chapter or deemed] a conviction for purposes of~~  
18 ~~disqualifications or disabilities imposed by law upon conviction of a crime.[~~  
19 ~~Voiding of a conviction under this subsection and dismissal may occur only once~~  
20 ~~with respect to any person.]~~

21 (9) If the court voids a conviction under this section, the court shall order the sealing of  
22 all records in the custody of the court and any records in the custody of any other  
23 agency or official, including law enforcement records, except as provided in KRS  
24 27A.099. The court shall order the sealing on a form provided by the  
25 Administrative Office of the Courts. Every agency with records relating to the  
26 arrest, charge, or other matters arising out of the arrest or charge that is ordered to  
27 seal records, shall certify to the court within sixty (60) days of the entry of the order

1 that the required sealing action has been completed.

2 (10) After the sealing of the record, the proceedings in the matter shall not be used  
3 against the defendant~~[except for the purposes of determining the person's eligibility~~  
4 ~~to have his or her conviction voided under subsection (8) of this section]~~. The court  
5 and other agencies shall reply to any inquiry that no record exists on the matter. The  
6 person whose record has been sealed shall not have to disclose the fact of the record  
7 or any matter relating thereto on an application for employment, credit, or other  
8 type of application.

9 (11) Inspection of the sealed records may thereafter be permitted by the court pursuant  
10 to KRS 27A.099 or upon a motion by the person who is the subject of the records  
11 and only to those persons named in the motion~~[or upon a motion of the prosecutor~~  
12 ~~to verify a defendant's eligibility to have his or her conviction voided under~~  
13 ~~subsection (8) of this section.~~

14 ~~(12) A person who has previously had a charge of possession of controlled substances~~  
15 ~~dismissed after completion of a deferred prosecution under KRS 218A.14151 shall~~  
16 ~~not be eligible for voiding of conviction under this section].~~

17 ➔Section 11. KRS 218A.500 is amended to read as follows:

18 As used in this section and KRS 218A.510:

19 (1) "Drug paraphernalia" means all equipment, products and materials of any kind  
20 which are used, intended for use, or designed for use in planting, propagating,  
21 cultivating, growing, harvesting, manufacturing, compounding, converting,  
22 producing, processing, ***or*** preparing~~[, testing, analyzing, packaging, repackaging,~~  
23 ~~storing, containing, concealing, injecting, ingesting, inhaling, or otherwise~~  
24 ~~introducing into the human body]~~ a controlled substance in violation of this chapter.  
25 The term "drug paraphernalia" does not include medicinal cannabis accessories as  
26 defined in KRS 218B.010. It includes but is not limited to:

27 (a) Kits used, intended for use, or designed for use in planting, propagating,

- 1           cultivating, growing, or harvesting of any species of plant which is a  
2           controlled substance or from which a controlled substance can be derived;
- 3           (b) Kits used, intended for use, or designed for use in manufacturing,  
4           compounding, converting, producing, processing, or preparing controlled  
5           substances;
- 6           (c) Isomerization devices used, intended for use, or designed for use in increasing  
7           the potency of any species of plant which is a controlled substance;
- 8           (d) Except as provided in subsection (7) of this section, ~~Testing equipment used,~~  
9           ~~intended for use, or designed for use in analyzing the strength, effectiveness,~~  
10           ~~or purity of controlled substances;~~
- 11           ~~(e)~~ scales and balances used, intended for use, or designed for use in weighing or  
12           measuring controlled substances;
- 13           ~~(e)~~~~(f)~~ Diluents and adulterants, such as quinine hydrochloride, mannitol,  
14           mannite, dextrose and lactose, used, intended for use, or designed for use in  
15           cutting controlled substances;
- 16           ~~(f)~~~~(g)~~ Separation gins and sifters used, intended for use, or designed for use in  
17           removing twigs and seeds from, or in otherwise cleaning or refining  
18           marijuana; **and**
- 19           ~~(g)~~~~(h)~~ Blenders, bowls, containers, spoons, and mixing devices used, intended  
20           for use, or designed for use in compounding controlled substances;
- 21           ~~(i)~~ Capsules, balloons, envelopes, and other containers used, intended for use, or  
22           ~~designed for use in packaging small quantities of controlled substances;~~
- 23           ~~(j)~~ Containers and other objects used, intended for use, or designed for use in  
24           ~~storing or concealing controlled substances;~~
- 25           ~~(k)~~ Hypodermic syringes, needles, and other objects used, intended for use, or  
26           ~~designed for use in parenterally injecting controlled substances into the human~~  
27           ~~body; and~~

1       ~~(1) Objects used, intended for use, or designed for use in ingesting, inhaling, or~~  
2       ~~otherwise introducing marijuana, cocaine, hashish, or hashish oil into the~~  
3       ~~human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic~~  
4       ~~pipes with or without screens, permanent screens, hashish heads, or punctured~~  
5       ~~metal bowls; water pipes; carburetion tubes and devices; smoking and~~  
6       ~~carburetion masks; roach clips which mean objects used to hold burning~~  
7       ~~material, such as marijuana cigarettes, that have become too small or too short~~  
8       ~~to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber~~  
9       ~~pipes; carburetor pipes; electric pipes; air driven pipes; chillums; bongs; ice~~  
10       ~~pipes or chillers].~~

11       (2) It is unlawful for any person to use, or to possess with intent to use, drug  
12       paraphernalia for the purpose of planting, propagating, cultivating, growing,  
13       harvesting, manufacturing, compounding, converting, producing, processing, or  
14       preparing~~[, testing, analyzing, packing, repacking, storing, containing, concealing,~~  
15       ~~injecting, ingesting, inhaling, or otherwise introducing into the human body]~~ a  
16       controlled substance in violation of this chapter.

17       (3) It is unlawful for any person to deliver, possess with intent to deliver, or  
18       manufacture with intent to deliver, drug paraphernalia, knowing, or under  
19       circumstances where one reasonably should know, that it will be used to plant,  
20       propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,  
21       process, or prepare~~[, test, analyze, pack, repack, store, contain, conceal, inject,~~  
22       ~~ingest, inhale, or otherwise introduce into the human body]~~ a controlled substance  
23       in violation of this chapter.

24       (4) It is unlawful for any person to place in any newspaper, magazine, handbill, or  
25       other publication any advertisement, knowing, or under circumstances where one  
26       reasonably should know, that the purpose of the advertisement, in whole or in part,  
27       is to promote the sale of objects designed or intended for use as drug paraphernalia.

- 1 (5) (a) This section shall not prohibit a local health department from operating a  
2 substance abuse treatment outreach program which allows participants to  
3 exchange hypodermic needles and syringes.
- 4 (b) To operate a substance abuse treatment outreach program under this  
5 subsection, the local health department shall have the consent, which may be  
6 revoked at any time, of the local board of health and:
- 7 1. The legislative body of the first or home rule class city in which the  
8 program would operate if located in such a city; and
- 9 2. The legislative body of the county, urban-county government, or  
10 consolidated local government in which the program would operate.
- 11 (c) Items exchanged at the program shall not be deemed drug paraphernalia under  
12 this section while located at the program.
- 13 (6) (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace  
14 officer may inquire as to the presence of needles or other sharp objects in the  
15 areas to be searched that may cut or puncture the officer and offer to not  
16 charge a person with possession of drug paraphernalia if the person declares  
17 to the officer the presence of the needle or other sharp object. If, in response  
18 to the offer, the person admits to the presence of the needle or other sharp  
19 object prior to the search, the person shall not be charged with or prosecuted  
20 for possession of drug paraphernalia for the needle or sharp object or for  
21 possession of a controlled substance for residual or trace drug amounts  
22 present on the needle or sharp object.
- 23 (b) The exemption under this subsection shall not apply to any other drug  
24 paraphernalia that may be present and found during the search or to controlled  
25 substances present in other than residual or trace amounts.
- 26 (7) (a) This section shall not prohibit the retail sale of hypodermic syringes and  
27 needles without a prescription in pharmacies.

- 1 (b) Hypodermic syringe and needle inventory of a pharmacy shall not be deemed  
2 drug paraphernalia under this section.
- 3 (c) 1. Except as provided in subparagraph 2. of this paragraph, narcotic drug  
4 testing products utilized in determining whether a controlled substance  
5 contains a synthetic opioid or its analogues shall not be deemed drug  
6 paraphernalia under this section.
- 7 2. A narcotic drug testing product that is utilized in conjunction with the  
8 importation, manufacture, or selling of fentanyl or a fentanyl analogue  
9 in violation of this chapter shall be deemed drug paraphernalia under  
10 this section.
- 11 (d) Notwithstanding any other statute to the contrary, possession of a narcotic  
12 drug testing product used in accordance with paragraph (c)1. of this  
13 subsection that contains residual or trace amounts of a synthetic opioid or an  
14 analogue thereof shall not be prosecuted as possession of a controlled  
15 substance under any provision of this chapter.
- 16 (8) Any person who violates any provision of this section shall be guilty of a Class A  
17 misdemeanor.
- 18 ➔Section 12. KRS 533.280 is amended to read as follows:
- 19 (1) Upon successful completion of the behavioral health conditional dismissal program:
- 20 (a) The court shall dismiss the charged offense or offenses with prejudice and  
21 discharge the defendant;
- 22 (b) All records relating to the case, including but not limited to arrest records and  
23 records relating to the charges, shall be sealed, ~~except as provided in KRS~~  
24 ~~27A.099];~~
- 25 (c) The offense shall be accessible for review for the sole purpose of determining  
26 the defendant's eligibility for deferred prosecution under KRS 218A.1415;  
27 and

1 (d) The defendant shall not be required to disclose the arrest or other information  
2 relating to the charges or participation in the program on an application for  
3 employment, credit, or other type of application unless required to do so by  
4 state or federal law.

5 (2) If a defendant who is participating in the behavioral health conditional dismissal  
6 program is convicted of or enters a plea of guilty to a felony offense other than a  
7 qualifying offense under any law of the United States, this state, or any other state,  
8 that was committed while participating in the program, the defendant shall be  
9 discharged from the behavioral health conditional dismissal program for failure to  
10 comply with the terms and conditions.

11 (3) If the defendant is discharged from the behavioral health conditional dismissal  
12 program by the treatment provider under KRS 533.278, all statements or other  
13 disclosures made by the defendant to any provider while participating in the  
14 program shall be protected by all applicable privacy laws and professional  
15 standards regarding confidentiality and shall not be admissible in a criminal trial  
16 relating to the offenses covered by the agreement executed under KRS 533.276.

17 (4) The attorney for the Commonwealth shall notify the victim, if there is an identified  
18 victim, of the defendant's dismissal from the program for noncompliance or  
19 discharge from the program following successful completion of the program.

20 ➔Section 13. KRS 218A.992 is amended to read as follows:

21 ~~{(1)}~~Other provisions of law notwithstanding, any person who is convicted of any  
22 violation of this chapter who, at the time of the commission of the offense and in  
23 furtherance of the offense, was in possession of a firearm, shall:

24 (1)~~{(a)}~~ Be penalized one (1) class more severely than provided in the penalty  
25 provision pertaining to that offense if it is a felony; or

26 (2)~~{(b)}~~ Be penalized as a Class D felon if the offense would otherwise be a  
27 misdemeanor.

1 ~~[(2) The provisions of this section shall not apply to a violation of KRS 218A.210,~~  
2 ~~218A.1450, 218A.1451, or 218A.1452.]~~

3 ➔Section 14. KRS 533.274 is amended to read as follows:

4 (1) In addition to the pretrial diversion program established under KRS 533.250 to  
5 533.260, ~~[and the deferred prosecution program established under KRS~~  
6 ~~218A.14151,]~~ a behavioral health conditional dismissal program shall be operated  
7 in each county participating in the pilot program established under KRS 533.272.

8 The behavioral health conditional dismissal program shall:

9 (a) Provide eligible persons, on an equal basis, an alternative to ordinary  
10 prosecution for qualifying offenses arising from a behavioral health disorder  
11 by receiving early recovery services and treatment reasonably expected to  
12 deter future criminal behavior; and

13 (b) Provide an expedited alternative to prosecution for eligible persons who may  
14 be harmed by the imposition of criminal sanctions in the absence of the  
15 alternative when the alternative is reasonably expected to serve as a sufficient  
16 deterrent to criminal conduct.

17 (2) The program may be utilized by any person:

18 (a) Who is a resident of the Commonwealth and who is at least eighteen (18)  
19 years of age;

20 (b) Whose clinical assessment indicates the presence of a behavioral health  
21 disorder;

22 (c) Charged with a qualifying offense;

23 (d) Who does not have a previous conviction for a Class A, B, or C felony, or a  
24 Class D felony or misdemeanor that is not a qualifying offense; and

25 (e) Who has been assessed by pre-trial services as a low-risk, low-level offender,  
26 or has been otherwise determined by the attorney for the Commonwealth or  
27 the attorney for the defendant as a viable participant in the program.

- 1 (3) Other factors that may be considered for admission into the behavioral health  
2 conditional dismissal program include but are not limited to:
- 3 (a) The likelihood that the applicant's offense is related to a behavioral health  
4 disorder that would be conducive to change through his or her participation in  
5 a behavioral health treatment program;
- 6 (b) The availability of behavioral health treatment programs in the defendant's  
7 county of residence if different from the county of arrest;
- 8 (c) The history of any physical violence toward others as documented through  
9 judicial or law enforcement records;
- 10 (d) Any involvement of the applicant with organized crime under KRS 506.120;  
11 and
- 12 (e) Whether or not the applicant's participation in a behavioral health treatment  
13 program would adversely affect the prosecution of codefendants.
- 14 (4) Eligible defendants in pretrial confinement shall be given preference for  
15 participation in the behavioral health conditional dismissal program.
- 16 (5) Eligible defendants who have charges pending but are not in custody shall be  
17 assessed for participation in the behavioral health conditional dismissal program as  
18 provided under KRS 533.276(1)(d).
- 19 ➔Section 15. KRS 431.078 is amended to read as follows:
- 20 (1) Any person who has been convicted of:
- 21 (a) A misdemeanor, a violation, or a traffic infraction not otherwise classified as a  
22 misdemeanor or violation, or a series of misdemeanors, violations, or traffic  
23 infractions arising from a single incident; or
- 24 (b) A series of misdemeanors, violations, or traffic infractions not arising from a  
25 single incident;
- 26 may petition the court in which he was convicted for expungement of his  
27 misdemeanor or violation record within that judicial district, including a record of

1 any charges for misdemeanors, violations, or traffic infractions that were dismissed  
2 or amended in the criminal action. The person shall be informed of the right at the  
3 time of adjudication.

4 (2) Except as provided in KRS 218A.275(8)~~and 218A.276(8)~~, the petition shall be  
5 filed no sooner than five (5) years after the completion of the person's sentence or  
6 five (5) years after the successful completion of the person's probation, whichever  
7 occurs later.

8 (3) Upon the filing of a petition, the court shall set a date for a hearing, no sooner than  
9 thirty (30) days after the filing of the petition, and shall notify the county attorney;  
10 the victim of the crime, if there was an identified victim; and any other person  
11 whom the person filing the petition has reason to believe may have relevant  
12 information related to the expungement of the record. Inability to locate the victim  
13 shall not delay the proceedings in the case or preclude the holding of a hearing or  
14 the issuance of an order of expungement.

15 (4) For a petition brought under subsection (1)(a) of this section, the court shall order  
16 expunged all records in the custody of the court and any records in the custody of  
17 any other agency or official, including law enforcement records, if at the hearing  
18 the court finds that:

- 19 (a) The offense was not a sex offense or an offense committed against a child;  
20 (b) The person had not in the five (5) years prior to the filing of the petition for  
21 expungement been convicted of a felony or a misdemeanor;  
22 (c) No proceeding concerning a felony or misdemeanor is pending or being  
23 instituted against the person; and  
24 (d) The offense is not one subject to enhancement for a second or subsequent  
25 offense or the time for such an enhancement has expired.

26 (5) For a petition brought under subsection (1)(b) of this section, the court may order  
27 expunged all records in the custody of the court and any records in the custody of

1 any other agency or official, including law enforcement records, if at the hearing  
2 the court finds that:

- 3 (a) The offense was not a sex offense or an offense committed against a child;
- 4 (b) The person had not in the five (5) years prior to the filing of the petition for  
5 expungement been convicted of a felony or a misdemeanor;
- 6 (c) No proceeding concerning a felony or misdemeanor is pending or being  
7 instituted against the person; and
- 8 (d) The offense is not one subject to enhancement for a second or subsequent  
9 offense or the time for such an enhancement has expired.

10 (6) Upon the entry of an order to expunge the records, the proceedings in the case shall  
11 be deemed never to have occurred; the court and other agencies shall cause records  
12 to be deleted or removed from their computer systems so that the matter shall not  
13 appear on official state-performed background checks; the persons and the court  
14 may properly reply that no record exists with respect to the persons upon any  
15 inquiry in the matter; and the person whose record is expunged shall not have to  
16 disclose the fact of the record or any matter relating thereto on an application for  
17 employment, credit, or other type of application.

18 (7) The filing fee for a petition under this section shall be one hundred dollars (\$100).  
19 The first fifty dollars (\$50) of each fee collected pursuant to this subsection shall be  
20 deposited into a trust and agency account for deputy clerks and shall not be  
21 refundable.

22 (8) Copies of the order shall be sent to each agency or official named therein.

23 (9) Inspection of the records included in the order may thereafter be permitted by the  
24 court only upon petition by the person who is the subject of the records and only to  
25 those persons named in the petition.

26 (10) This section shall be deemed to be retroactive, and any person who has been  
27 convicted of a misdemeanor prior to July 14, 1992, may petition the court in which

1 he was convicted, or if he was convicted prior to the inception of the District Court  
 2 to the District Court in the county where he now resides, for expungement of the  
 3 record of one (1) misdemeanor offense or violation or a series of misdemeanor  
 4 offenses or violations arising from a single incident, provided that the offense was  
 5 not one specified in subsection (4) and that the offense was not the precursor  
 6 offense of a felony offense for which he was subsequently convicted. This section  
 7 shall apply only to offenses against the Commonwealth of Kentucky.

8 (11) As used in this section, "violation" has the same meaning as in KRS 500.080.

9 (12) Any person denied an expungement prior to June 25, 2013, due to the presence of a  
 10 traffic infraction on his or her record may file a new petition for expungement of  
 11 the previously petitioned offenses, which the court shall hear and decide under the  
 12 terms of this section. No court costs or other fees, from the court or any other  
 13 agency, shall be required of a person filing a new petition under this subsection.

14 ➔Section 16. KRS 218A.275 is amended to read as follows:

15 (1) **The Department of Pretrial Services shall employ or contract with persons**  
 16 **authorized to diagnose substance use disorders, and shall**~~A court may request the~~  
 17 ~~Division of Probation and Parole to~~ perform a risk and needs assessment for any  
 18 person **charged with**~~found guilty of~~ possession of a controlled substance pursuant  
 19 to KRS 218A.1415, 218A.1416, ~~or~~ 218A.1417, **218A.1422, or 218A.1430.** **If the**  
 20 **person is diagnosed with any substance use disorder defined in the most recent**  
 21 **version of the Diagnostic and Statistical Manual of Mental Disorders,** the  
 22 assessor shall make a recommendation to the court as to whether treatment is  
 23 indicated by the assessment, and, if so, the most appropriate **level and modality of**  
 24 treatment or recovery program environment. If treatment is indicated for the person,  
 25 **unless the court makes a written finding that the recommended treatment would**  
 26 **not be in the public interest,** the court **shall**~~may~~ order him or her to the  
 27 appropriate treatment or recovery program that will effectively respond to the

1 person's level of risk, criminal risk factors, and individual characteristics as  
2 designated by the secretary of the Cabinet for Health and Family Services where a  
3 program of treatment or recovery not to exceed one (1) year in duration may be  
4 prescribed. The person ordered to the designated treatment or recovery program  
5 shall present himself or herself for registration and initiation of the treatment or  
6 recovery program within five (5) days of the date of sentencing. If, without good  
7 cause, the person fails to appear at the designated treatment or recovery program  
8 within the specified time, or if at any time during the program of treatment or  
9 recovery prescribed, the authorized director of the treatment or recovery program  
10 finds that the person is unwilling to participate in his or her treatment, the director  
11 shall notify the sentencing court. Upon receipt of notification, the court shall cause  
12 the person to be brought before it and may continue the order of treatment, or may  
13 rescind the treatment order and impose a sentence for the possession offense. Upon  
14 discharge of the person from the treatment or recovery program by the secretary of  
15 the Cabinet for Health and Family Services, or his or her designee, prior to the  
16 expiration of the one (1) year period or upon satisfactory completion of one (1) year  
17 of treatment, the person shall be deemed finally discharged from sentence. The  
18 secretary, or his or her designee, shall notify the sentencing court of the date of such  
19 discharge from the treatment or recovery program.

20 (2) The secretary of the Cabinet for Health and Family Services, or his or her designee,  
21 shall inform each court of the identity and location of the treatment or recovery  
22 program to which the person is sentenced.

23 (3) Transportation to an inpatient facility shall be provided by order of the court when  
24 the court finds the person unable to convey himself or herself to the facility within  
25 five (5) days of sentencing by reason of physical infirmity or financial incapability.

26 (4) The sentencing court shall immediately notify the designated treatment or recovery  
27 program of the sentence and its effective date.

- 1 (5) The secretary for health and family services, or his or her designee, may authorize  
2 transfer of the person from the initially designated treatment or recovery program to  
3 another treatment or recovery program for therapeutic purposes. The sentencing  
4 court shall be notified of termination of treatment by the terminating treatment or  
5 recovery program and shall be notified by the secretary of the new treatment or  
6 recovery program to which the person was transferred.
- 7 (6) Responsibility for payment for treatment services rendered to persons pursuant to  
8 this section shall be as under the statutes pertaining to payment of patients and  
9 others for services rendered by the Cabinet for Health and Family Services, unless  
10 the person and the treatment or recovery program shall arrange otherwise.
- 11 (7) None of the provisions of this section shall be deemed to preclude the court from  
12 exercising its usual discretion with regard to ordering probation or conditional  
13 discharge.
- 14 (8) ~~Except as provided in subsection (12) of this section, ]~~In the case of any person  
15 who has been convicted ~~[for the first time ]~~of possession of controlled substances,  
16 the court may set aside and void the conviction upon satisfactory completion of  
17 treatment, probation, or other sentence, and issue to the person a certificate to that  
18 effect. A conviction voided under this subsection shall not be deemed ~~[a first~~  
19 ~~offense for purposes of this chapter or deemed ]~~a conviction for purposes of  
20 disqualifications or disabilities imposed by law upon conviction of a crime.~~[~~  
21 ~~Voiding of a conviction under this subsection and dismissal may occur only once~~  
22 ~~with respect to any person.]~~
- 23 (9) If the court voids a conviction under this section, the court shall order the sealing of  
24 all records in the custody of the court and any records in the custody of any other  
25 agency or official, including law enforcement records~~[, except as provided in KRS~~  
26 ~~27A.099]~~. The court shall order the sealing on a form provided by the  
27 Administrative Office of the Courts. Every agency with records relating to the

1 arrest, charge, or other matters arising out of the arrest or charge that is ordered to  
2 seal records, shall certify to the court within sixty (60) days of the entry of the order  
3 that the required sealing action has been completed.

4 (10) After the sealing of the record, the proceedings in the matter shall not be used  
5 against the defendant~~[except for the purposes of determining the person's eligibility~~  
6 ~~to have his or her conviction voided under subsection (8) of this section]~~. The court  
7 and other agencies shall reply to any inquiry that no record exists on the matter. The  
8 person whose record has been sealed shall not have to disclose the fact of the record  
9 or any matter relating thereto on an application for employment, credit, or other  
10 type of application.

11 (11) Inspection of the sealed records may thereafter be permitted by the court ~~[pursuant~~  
12 ~~to KRS 27A.099 or ]~~upon a motion by the person who is the subject of the records  
13 and only to those persons named in the motion~~[or upon a motion of the prosecutor~~  
14 ~~to verify a defendant's eligibility to have his or her conviction voided under~~  
15 ~~subsection (8) of this section.~~

16 ~~(12) A person who has previously had a charge of possession of controlled substances~~  
17 ~~dismissed after completion of a deferred prosecution under KRS 218A.14151 shall~~  
18 ~~not be eligible for voiding of conviction under this section].~~

19 ➔Section 17. KRS 218A.010 is amended to read as follows:

20 As used in this chapter, unless the context otherwise requires:

21 (1) "Administer" means the direct application of a controlled substance, whether by  
22 injection, inhalation, ingestion, or any other means, to the body of a patient or  
23 research subject by:

24 (a) A practitioner or by his or her authorized agent under his or her immediate  
25 supervision and pursuant to his or her order; or

26 (b) The patient or research subject at the direction and in the presence of the  
27 practitioner;

- 1 (2) "Anabolic steroid" means any drug or hormonal substance chemically and  
2 pharmacologically related to testosterone that promotes muscle growth and includes  
3 those substances classified as Schedule III controlled substances pursuant to KRS  
4 218A.020 but does not include estrogens, progestins, and antisteroids;
- 5 (3) "Cabinet" means the Cabinet for Health and Family Services;
- 6 (4) "Carfentanil" means any substance containing any quantity of carfentanil, or any of  
7 its salts, isomers, or salts of isomers;
- 8 (5) "Certified community based palliative care program" means a palliative care  
9 program which has received certification from the Joint Commission;
- 10 (6) "Child" means any person under the age of majority as specified in KRS 2.015;
- 11 (7) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical  
12 and geometric isomers, and salts of isomers;
- 13 (8) "Controlled substance" means methamphetamine, or a drug, substance, or  
14 immediate precursor in Schedules I through V and includes a controlled substance  
15 analogue;
- 16 (9) (a) "Controlled substance analogue," except as provided in paragraph (b) of this  
17 subsection, means a substance:
- 18 1. The chemical structure of which is substantially similar to the structure  
19 of a controlled substance in Schedule I or II; and
  - 20 2. Which has a stimulant, depressant, or hallucinogenic effect on the  
21 central nervous system that is substantially similar to or greater than the  
22 stimulant, depressant, or hallucinogenic effect on the central nervous  
23 system of a controlled substance in Schedule I or II; or
  - 24 3. With respect to a particular person, which such person represents or  
25 intends to have a stimulant, depressant, or hallucinogenic effect on the  
26 central nervous system that is substantially similar to or greater than the  
27 stimulant, depressant, or hallucinogenic effect on the central nervous

1 system of a controlled substance in Schedule I or II.

2 (b) Such term does not include:

3 1. Any substance for which there is an approved new drug application;

4 2. With respect to a particular person, any substance if an exemption is in  
5 effect for investigational use for that person pursuant to federal law to  
6 the extent conduct with respect to such substance is pursuant to such  
7 exemption; or

8 3. Any substance to the extent not intended for human consumption before  
9 the exemption described in subparagraph 2. of this paragraph takes  
10 effect with respect to that substance;

11 (10) "Counterfeit substance" means a controlled substance which, or the container or  
12 labeling of which, without authorization, bears the trademark, trade name, or other  
13 identifying mark, imprint, number, or device, or any likeness thereof, of a  
14 manufacturer, distributor, or dispenser other than the person who in fact  
15 manufactured, distributed, or dispensed the substance;

16 (11) "Dispense" means to deliver a controlled substance to an ultimate user or research  
17 subject by or pursuant to the lawful order of a practitioner, including the packaging,  
18 labeling, or compounding necessary to prepare the substance for that delivery;

19 (12) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V  
20 controlled substance to or for the use of an ultimate user;

21 (13) "Distribute" means to deliver other than by administering or dispensing a controlled  
22 substance;

23 (14) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of  
24 administration available as a single unit;

25 (15) "Drug" means:

26 (a) Substances recognized as drugs in the official United States Pharmacopoeia,  
27 official Homeopathic Pharmacopoeia of the United States, or official National

- 1           Formulary, or any supplement to any of them;
- 2           (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or
- 3           prevention of disease in man or animals;
- 4           (c) Substances (other than food) intended to affect the structure or any function of
- 5           the body of man or animals; and
- 6           (d) Substances intended for use as a component of any article specified in this
- 7           subsection.

8           It does not include devices or their components, parts, or accessories;

9           (16) "Fentanyl" means a substance containing any quantity of fentanyl, or any of its

10          salts, isomers, or salts of isomers;

11          (17) "Fentanyl derivative" means a substance containing any quantity of any chemical

12          compound, except compounds specifically scheduled as controlled substances by

13          statute or by administrative regulation pursuant to this chapter, which is structurally

14          derived from 1-ethyl-4-(N-phenylamido) piperadine:

15          (a) By substitution:

- 16               1. At the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or
- 17               ethyloxotetrazole ring system; and
- 18               2. Of the terminal amido hydrogen atom with an alkyl, alkoxy, cycloalkyl,
- 19               or furanyl group; and

20          (b) Which may be further modified in one (1) or more of the following ways:

- 21               1. By substitution on the N-phenyl ring to any extent with alkyl, alkoxy,
- 22               haloalkyl, hydroxyl, or halide substituents;
- 23               2. By substitution on the piperadine ring to any extent with alkyl, allyl,
- 24               alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6-
- 25               positions;
- 26               3. By substitution on the piperadine ring to any extent with a phenyl,
- 27               alkoxy, or carboxylate ester substituent at the 4- position; or

- 1           4. By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or  
2           hydroxy substituents;
- 3 (18) "Good-faith prior examination," as used in KRS Chapter 218A and for criminal  
4 prosecution only, means an in-person medical examination of the patient conducted  
5 by the prescribing practitioner or other health-care professional routinely relied  
6 upon in the ordinary course of his or her practice, at which time the patient is  
7 physically examined and a medical history of the patient is obtained. "In-person"  
8 includes telehealth examinations. This subsection shall not be applicable to hospice  
9 providers licensed pursuant to KRS Chapter 216B;
- 10 (19) "Hazardous chemical substance" includes any chemical substance used or intended  
11 for use in the illegal manufacture of a controlled substance as defined in this section  
12 or the illegal manufacture of methamphetamine as defined in KRS 218A.1431,  
13 which:
- 14 (a) Poses an explosion hazard;
- 15 (b) Poses a fire hazard; or
- 16 (c) Is poisonous or injurious if handled, swallowed, or inhaled;
- 17 (20) "Heroin" means a substance containing any quantity of heroin, or any of its salts,  
18 isomers, or salts of isomers;
- 19 (21) "Hydrocodone combination product" means a drug with:
- 20 (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of  
21 its salts, per one hundred (100) milliliters or not more than fifteen (15)  
22 milligrams per dosage unit, with a fourfold or greater quantity of an  
23 isoquinoline alkaloid of opium; or
- 24 (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of  
25 its salts, per one hundred (100) milliliters or not more than fifteen (15)  
26 milligrams per dosage unit, with one (1) or more active, nonnarcotic  
27 ingredients in recognized therapeutic amounts;

- 1 (22) "Immediate precursor" means a substance which is the principal compound  
2 commonly used or produced primarily for use, and which is an immediate chemical  
3 intermediary used or likely to be used in the manufacture of a controlled substance  
4 or methamphetamine, the control of which is necessary to prevent, curtail, or limit  
5 manufacture;
- 6 (23) "Industrial hemp" has the same meaning as in KRS 260.850;
- 7 (24) "Industrial hemp products" has the same meaning as in KRS 260.850;
- 8 (25) "Intent to manufacture" means any evidence which demonstrates a person's  
9 conscious objective to manufacture a controlled substance or methamphetamine.  
10 Such evidence includes but is not limited to statements and a chemical substance's  
11 usage, quantity, manner of storage, or proximity to other chemical substances or  
12 equipment used to manufacture a controlled substance or methamphetamine;
- 13 (26) "Isomer" means the optical isomer, except the Cabinet for Health and Family  
14 Services may include the optical, positional, or geometric isomer to classify any  
15 substance pursuant to KRS 218A.020;
- 16 (27) "Manufacture," except as provided in KRS 218A.1431, means the production,  
17 preparation, propagation, compounding, conversion, or processing of a controlled  
18 substance, either directly or indirectly by extraction from substances of natural  
19 origin or independently by means of chemical synthesis, or by a combination of  
20 extraction and chemical synthesis, and includes any packaging or repackaging of  
21 the substance or labeling or relabeling of its container except that this term does not  
22 include activities:
- 23 (a) By a practitioner as an incident to his or her administering or dispensing of a  
24 controlled substance in the course of his or her professional practice;
- 25 (b) By a practitioner, or by his or her authorized agent under his supervision, for  
26 the purpose of, or as an incident to, research, teaching, or chemical analysis  
27 and not for sale; or

- 1 (c) By a pharmacist as an incident to his or her dispensing of a controlled  
2 substance in the course of his or her professional practice;
- 3 (28) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the  
4 seeds thereof; the resin extracted from any part of the plant; and every compound,  
5 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin  
6 or any compound, mixture, or preparation which contains any quantity of these  
7 substances. The term "marijuana" does not include:
- 8 (a) Industrial hemp that is in the possession, custody, or control of a person who  
9 holds a license issued by the Department of Agriculture permitting that person  
10 to cultivate, handle, or process industrial hemp;
- 11 (b) Industrial hemp products that do not include any living plants, viable seeds,  
12 leaf materials, or floral materials;
- 13 (c) The substance cannabidiol, when transferred, dispensed, or administered  
14 pursuant to the written order of a physician practicing at a hospital or  
15 associated clinic affiliated with a Kentucky public university having a college  
16 or school of medicine;
- 17 (d) For persons participating in a clinical trial or in an expanded access program,  
18 a drug or substance approved for the use of those participants by the United  
19 States Food and Drug Administration;
- 20 (e) A cannabidiol product derived from industrial hemp, as defined in KRS  
21 260.850;
- 22 (f) For the purpose of conducting scientific research, a cannabinoid product  
23 derived from industrial hemp, as defined in KRS 260.850;
- 24 (g) A cannabinoid product approved as a prescription medication by the United  
25 States Food and Drug Administration; or
- 26 (h) Medicinal cannabis as defined in KRS 218B.010;
- 27 (29) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only,

- 1 means an accounting of a patient's medical background, including but not limited to  
2 prior medical conditions, prescriptions, and family background;
- 3 (30) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only,  
4 means a lawful order of a specifically identified practitioner for a specifically  
5 identified patient for the patient's health-care needs. "Medical order" may or may  
6 not include a prescription drug order;
- 7 (31) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only,  
8 means a record, other than for financial or billing purposes, relating to a patient,  
9 kept by a practitioner as a result of the practitioner-patient relationship;
- 10 (32) "Methamphetamine" means any substance that contains any quantity of  
11 methamphetamine, or any of its salts, isomers, or salts of isomers;
- 12 (33) "Narcotic drug" means any of the following, whether produced directly or indirectly  
13 by extraction from substances of vegetable origin, or independently by means of  
14 chemical synthesis, or by a combination of extraction and chemical synthesis:
- 15 (a) Opium and opiate, and any salt, compound, derivative, or preparation of  
16 opium or opiate;
- 17 (b) Any salt, compound, isomer, derivative, or preparation thereof which is  
18 chemically equivalent or identical with any of the substances referred to in  
19 paragraph (a) of this subsection, but not including the isoquinoline alkaloids  
20 of opium;
- 21 (c) Opium poppy and poppy straw;
- 22 (d) Coca leaves, except coca leaves and extracts of coca leaves from which  
23 cocaine, ecgonine, and derivatives of ecgonine or their salts have been  
24 removed;
- 25 (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 26 (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
- 27 (g) Any compound, mixture, or preparation which contains any quantity of any of

- 1           the substances referred to in paragraphs (a) to (f) of this subsection;
- 2 (34) "Opiate" means any substance having an addiction-forming or addiction-sustaining  
3 liability similar to morphine or being capable of conversion into a drug having  
4 addiction-forming or addiction-sustaining liability. It does not include, unless  
5 specifically designated as controlled under KRS 218A.020, the dextrorotatory  
6 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does  
7 include its racemic and levorotatory forms;
- 8 (35) "Opium poppy" means the plant of the species *papaver somniferum* L., except its  
9 seeds;
- 10 (36) "Person" means individual, corporation, government or governmental subdivision  
11 or agency, business trust, estate, trust, partnership or association, or any other legal  
12 entity;
- 13 (37) "Physical injury" has the same meaning it has in KRS 500.080;
- 14 (38) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- 15 (39) "Pharmacist" means a natural person licensed by this state to engage in the practice  
16 of the profession of pharmacy;
- 17 (40) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific  
18 investigator, optometrist as authorized in KRS 320.240, advanced practice  
19 registered nurse as authorized under KRS 314.011, physician assistant as authorized  
20 under KRS 311.858, or other person licensed, registered, or otherwise permitted by  
21 state or federal law to acquire, distribute, dispense, conduct research with respect to,  
22 or to administer a controlled substance in the course of professional practice or  
23 research in this state. "Practitioner" also includes a physician, dentist, podiatrist,  
24 veterinarian, or advanced practice registered nurse authorized under KRS 314.011  
25 who is a resident of and actively practicing in a state other than Kentucky and who  
26 is licensed and has prescriptive authority for controlled substances under the  
27 professional licensing laws of another state, unless the person's Kentucky license

1 has been revoked, suspended, restricted, or probated, in which case the terms of the  
2 Kentucky license shall prevail;

3 (41) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal  
4 prosecution only, means a medical relationship that exists between a patient and a  
5 practitioner or the practitioner's designee, after the practitioner or his or her  
6 designee has conducted at least one (1) good-faith prior examination;

7 (42) "Prescription" means a written, electronic, or oral order for a drug or medicine, or  
8 combination or mixture of drugs or medicines, or proprietary preparation, signed or  
9 given or authorized by a medical, dental, chiropody, veterinarian, optometric  
10 practitioner, or advanced practice registered nurse, and intended for use in the  
11 diagnosis, cure, mitigation, treatment, or prevention of disease in man or other  
12 animals;

13 (43) "Prescription blank," with reference to a controlled substance, means a document  
14 that meets the requirements of KRS 218A.204 and 217.216;

15 (44) "Presumptive probation" means a sentence of probation not to exceed the maximum  
16 term specified for the offense, subject to conditions otherwise authorized by law,  
17 that is presumed to be the appropriate sentence for certain offenses designated in  
18 this chapter, notwithstanding contrary provisions of KRS Chapter 533. That  
19 presumption shall only be overcome by a finding on the record by the sentencing  
20 court of substantial and compelling reasons why the defendant cannot be safely and  
21 effectively supervised in the community, is not amenable to community-based  
22 treatment, or poses a significant risk to public safety;

23 (45) "Production" includes the manufacture, planting, cultivation, growing, or harvesting  
24 of a controlled substance;

25 (46) "Recovery program" means an evidence-based, nonclinical service that assists  
26 individuals and families working toward sustained recovery from substance use and  
27 other criminal risk factors. This can be done through an array of support programs

- 1 and services that are delivered through residential and nonresidential means;
- 2 (47) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant  
3 presently classified botanically as *Salvia divinorum*, whether growing or not, the  
4 seeds thereof, any extract from any part of that plant, and every compound,  
5 manufacture, derivative, mixture, or preparation of that plant, its seeds, or its  
6 extracts, including salts, isomers, and salts of isomers whenever the existence of  
7 such salts, isomers, and salts of isomers is possible within the specific chemical  
8 designation of that plant, its seeds, or extracts. The term shall not include any other  
9 species in the genus *salvia*;
- 10 (48) "Second or subsequent offense" means that for the purposes of this chapter an  
11 offense is considered as a second or subsequent offense, if, prior to his or her  
12 conviction of the offense, the offender has at any time been convicted under this  
13 chapter, or under any statute of the United States, or of any state relating to  
14 substances classified as controlled substances or counterfeit substances, except that  
15 a prior conviction for a nontrafficking offense shall be treated as a prior offense  
16 only when the subsequent offense is a nontrafficking offense. For the purposes of  
17 this section, a conviction voided under KRS 218A.275 ~~for 218A.276~~ shall not  
18 constitute a conviction under this chapter;
- 19 (49) "Sell" means to dispose of a controlled substance to another person for  
20 consideration or in furtherance of commercial distribution;
- 21 (50) "Serious physical injury" has the same meaning it has in KRS 500.080;
- 22 (51) "Synthetic cannabinoids or piperazines" means any chemical compound which is  
23 not approved by the United States Food and Drug Administration or, if approved,  
24 which is not dispensed or possessed in accordance with state and federal law, that  
25 contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-  
26 Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-  
27 naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any

1 compound in the following structural classes:

- 2 (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole  
3 structure with substitution at the nitrogen atom of the indole ring by an alkyl,  
4 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
5 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further  
6 substituted in the indole ring to any extent and whether or not substituted in  
7 the naphthyl ring to any extent. Examples of this structural class include but  
8 are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-  
9 122, JWH-200, and AM-2201;
- 10 (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole  
11 structure with substitution at the nitrogen atom of the indole ring by an alkyl,  
12 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
13 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further  
14 substituted in the indole ring to any extent and whether or not substituted in  
15 the phenyl ring to any extent. Examples of this structural class include but are  
16 not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
- 17 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with  
18 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,  
19 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
20 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further  
21 substituted in the indole ring to any extent and whether or not substituted in  
22 the phenyl ring to any extent. Examples of this structural class include but are  
23 not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and  
24 RCS-4;
- 25 (d) Cyclohexylphenols: Any compound containing a 2-(3-  
26 hydroxycyclohexyl)phenol structure with substitution at the 5-position of the  
27 phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,

- 1           cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl  
2           group whether or not substituted in the cyclohexyl ring to any extent.  
3           Examples of this structural class include but are not limited to CP 47,497 and  
4           its C8 homologue (cannabicyclohexanol);
- 5           (e) Naphthylmethyloindoles: Any compound containing a 1H-indol-3-yl-(1-  
6           naphthyl)methane structure with substitution at the nitrogen atom of the  
7           indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
8           1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether  
9           or not further substituted in the indole ring to any extent and whether or not  
10          substituted in the naphthyl ring to any extent. Examples of this structural class  
11          include but are not limited to JWH-175, JWH-184, and JWH-185;
- 12          (f) Naphthoypyrroles: Any compound containing a 3-(1-naphthoypyrrole  
13          structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl,  
14          haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
15          piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further  
16          substituted in the pyrrole ring to any extent and whether or not substituted in  
17          the naphthyl ring to any extent. Examples of this structural class include but  
18          are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
- 19          (g) Naphthylmethyloindenes: Any compound containing a 1-(1-  
20          naphthylmethyl)indene structure with substitution at the 3-position of the  
21          indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
22          1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether  
23          or not further substituted in the indene ring to any extent and whether or not  
24          substituted in the naphthyl ring to any extent. Examples of this structural class  
25          include but are not limited to JWH-176;
- 26          (h) Tetramethylcyclopropanoyloindoles: Any compound containing a 3-(1-  
27          tetramethylcyclopropoyl)indole structure with substitution at the nitrogen

1 atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl,  
2 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl  
3 group, whether or not further substituted in the indole ring to any extent and  
4 whether or not further substituted in the tetramethylcyclopropyl ring to any  
5 extent. Examples of this structural class include but are not limited to UR-144  
6 and XLR-11;

7 (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole  
8 structure with substitution at the nitrogen atom of the indole ring by an alkyl,  
9 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
10 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further  
11 substituted in the indole ring to any extent and whether or not substituted in  
12 the adamantyl ring system to any extent. Examples of this structural class  
13 include but are not limited to AB-001 and AM-1248; or

14 (j) Any other synthetic cannabinoid or piperazine which is not approved by the  
15 United States Food and Drug Administration or, if approved, which is not  
16 dispensed or possessed in accordance with state and federal law;

17 (52) "Synthetic cathinones" means any chemical compound which is not approved by  
18 the United States Food and Drug Administration or, if approved, which is not  
19 dispensed or possessed in accordance with state and federal law (not including  
20 bupropion or compounds listed under a different schedule) structurally derived from  
21 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl,  
22 or thiophene ring systems, whether or not the compound is further modified in one  
23 (1) or more of the following ways:

24 (a) By substitution in the ring system to any extent with alkyl, alkylendioxy,  
25 alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further  
26 substituted in the ring system by one (1) or more other univalent substituents.  
27 Examples of this class include but are not limited to 3,4-

- 1           Methylenedioxcathinone (bk-MDA);
- 2           (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples
- 3           of this class include but are not limited to 2-methylamino-1-phenylbutan-1-
- 4           one (buphedrone);
- 5           (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or
- 6           methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a
- 7           cyclic structure. Examples of this class include but are not limited to
- 8           Dimethylcathinone, Ethcathinone, and  $\alpha$ -Pyrrolidinopropiophenone ( $\alpha$ -PPP);
- 9           or
- 10          (d) Any other synthetic cathinone which is not approved by the United States
- 11          Food and Drug Administration or, if approved, is not dispensed or possessed
- 12          in accordance with state or federal law;
- 13 (53) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic
- 14          cathinones;
- 15 (54) "Telehealth" has the same meaning it has in KRS 211.332;
- 16 (55) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained
- 17          in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic
- 18          substances, derivatives, and their isomers with similar chemical structure and
- 19          pharmacological activity such as the following:
- 20          (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
- 21          (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
- 22          (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
- 23 (56) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute,
- 24          dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense,
- 25          or sell a controlled substance;
- 26 (57) "Transfer" means to dispose of a controlled substance to another person without
- 27          consideration and not in furtherance of commercial distribution; and

1 (58) "Ultimate user" means a person who lawfully possesses a controlled substance for  
2 his or her own use or for the use of a member of his or her household or for  
3 administering to an animal owned by him or her or by a member of his or her  
4 household.

5 ➔Section 18. The following KRS sections are repealed:

6 218A.14151 Deferred prosecution program for first and second offenders of KRS  
7 218A.1415.

8 218A.1450 Trafficking in salvia -- Penalty.

9 218A.1451 Possession of salvia -- Penalty -- Maximum term of incarceration.

10 218A.1452 Salvia cultivation -- Penalty.

11 218A.276 Assessment and treatment program for possessors of marijuana, synthetic  
12 drugs, or salvia -- Rescission of treatment order -- Voiding of conviction -- Sealing  
13 of records.

14 27A.099 Deferred prosecution -- Application -- Listing of persons with records sealed.

15 ➔Section 19. Sections 13 to 17 of this Act take effect August 1, 2025.