

1 AN ACT relating to the transportation of students and declaring an emergency.

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

3 ➔Section 1. KRS 156.153 is amended to read as follows:

4 (1) All school buses for which bids are made or bid contracts awarded shall meet the
5 standards and specifications of the Kentucky Department of Education. The term
6 "school bus," as used in this section, shall mean any motor vehicle which meets the
7 standards and specifications for school buses as provided by law or by the standards
8 or specifications of the Kentucky Department of Education authorized by law and
9 used solely in transporting school children and school employees to and from
10 school under the supervision and control and at the direction of school authorities,
11 and shall further include school bus accessory equipment and supplies and
12 replacement equipment considered to be reasonably adaptable for purchase from
13 price contract agreements.

14 (2) **(a)** ~~[Except in cases of emergencies or for the transportation of students with~~
15 ~~disabilities, only]~~ School buses as defined in subsection (1) of this section
16 shall be used for transporting students to and from school along regular bus
17 routes. Districts may **also** use district-owned **and district-leased** vehicles that
18 were designed and built by the manufacturer for passenger transportation
19 when transporting nine (9) or fewer passengers, including the driver, for
20 approved school activities **and transporting students to and from school**
21 **under an alternative transportation plan approved by the Kentucky**
22 **Department of Education.**

23 **(b)** Vehicles used under this subsection shall be clearly marked as transporting
24 students and shall be safety inspected no less than once every thirty (30) days.

25 **(c)** **Vehicles used under this section shall be operated by an employee of a local**
26 **school district that is licensed to operate a motor vehicle within the**
27 **Commonwealth. An individual that operates a vehicle to transport a student**

1 or students without a valid, active license to operate that motor vehicle
 2 within the Commonwealth shall be subject to the penalties set forth in
 3 subsection (4) of Section 3 of this Act.

4 (3) The Kentucky Board of Education shall promulgate administrative regulations in
 5 accordance with KRS Chapter 13A to establish minimum standards and
 6 specifications for a non-school bus passenger vehicles and the minimum
 7 qualifications and training requirements for drivers of non-school bus passenger
 8 vehicles.

9 (4) As part of its regular procedure for establishing and updating school bus standards
 10 and specifications, the Kentucky Department of Education shall consider allowing
 11 school buses to operate using clean transportation fuels, as defined in KRS 186.750.
 12 If the department determines that school buses may operate using clean
 13 transportation fuels while maintaining the same or a higher degree of safety as fuels
 14 currently allowed, it shall update its standards and specifications to allow for such
 15 use.

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

17 (1) As used in this section:

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

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

27 (b) "Alternative education program" means a program that exists to meet the

1 needs of students that cannot be addressed in a traditional classroom setting
2 but through the assignment of students to alternative classrooms, centers, or
3 campuses that are designed to remediate academic performance, improve
4 behavior, or provide an enhanced learning experience. Alternative education
5 programs do not include career or technical centers or departments;

6 (c) "Clear CA/N check" means a letter from the Cabinet for Health and Family
7 Services indicating that there are no administrative findings of child abuse or
8 neglect relating to a specific individual;

9 (d) "Relative" means father, mother, brother, sister, husband, wife, son and
10 daughter; and

11 (e) "Vacancy" means any certified position opening created by the resignation,
12 dismissal, nonrenewal of contract, transfer, or death of a certified staff
13 member of a local school district, or a new position created in a local school
14 district for which certification is required. However, if an employer-employee
15 bargained contract contains procedures for filling certified position openings
16 created by the resignation, dismissal, nonrenewal of contract, transfer, or
17 death of a certified staff member, or creation of a new position for which
18 certification is required, a vacancy shall not exist, unless certified positions
19 remain open after compliance with those procedures.

20 (2) Except as provided in KRS 160.346, the school district personnel actions identified
21 in this section shall be carried out as follows:

22 (a) All appointments, promotions, and transfers of principals, supervisors,
23 teachers, and other public school employees shall be made only by the
24 superintendent of schools, who shall notify the board of the action taken. All
25 employees of the local district shall have the qualifications prescribed by law
26 and by the administrative regulations of the Kentucky Board of Education and
27 of the employing board. Supervisors, principals, teachers, and other

1 employees may be appointed by the superintendent for any school year at any
2 time after February 1 preceding the beginning of the school year. No
3 superintendent of schools shall appoint or transfer himself or herself to
4 another position within the school district;

5 (b) When a vacancy occurs in a local school district, the superintendent shall
6 submit the job posting to the statewide job posting system described in KRS
7 160.152 fifteen (15) days before the position shall be filled. The local school
8 district shall post position openings in the local board office for public
9 viewing;

10 (c) When a vacancy needs to be filled in less than fifteen (15) days' time to
11 prevent disruption of necessary instructional or support services of the school
12 district, the superintendent may seek a waiver from the chief state school
13 officer. If the waiver is approved, the appointment shall not be made until the
14 person recommended for the position has been approved by the chief state
15 school officer. The chief state school officer shall respond to a district's
16 request for waiver or for approval of an appointment within two (2) working
17 days; and

18 (d) When a vacancy occurs in a local district, the superintendent shall conduct a
19 search to locate minority teachers to be considered for the position. The
20 superintendent shall, pursuant to administrative regulations of the Kentucky
21 Board of Education, report annually the district's recruitment process and the
22 activities used to increase the percentage of minority teachers in the district.

23 (3) Restrictions on employment of relatives shall be as follows:

24 (a) No relative of a superintendent of schools shall be an employee of the school
25 district. However, this shall not apply to a relative who is a classified or
26 certified employee of the school district for at least thirty-six (36) months
27 prior to the superintendent assuming office and who is qualified for the

1 position the employee holds. A superintendent's spouse who has previously
2 been employed in a school system may be an employee of the school district.
3 A superintendent's spouse who is employed under this provision shall not hold
4 a position in which the spouse supervises certified or classified employees. A
5 superintendent's spouse may supervise teacher aides and student teachers.
6 However, the superintendent shall not promote a relative who continues
7 employment under an exception of this subsection;

8 (b) No superintendent shall employ a relative of a school board member of the
9 district;

10 (c) No principal's relative shall be employed in the principal's school; and

11 (d) A relative that is ineligible for employment under paragraph (a), (b), or (c) of
12 this subsection may be employed as a substitute for a certified or classified
13 employee if the relative is not:

- 14 1. A regular full-time or part-time employee of the district;
- 15 2. Accruing continuing contract status or any other right to continuous
16 employment;
- 17 3. Receiving fringe benefits other than those provided other substitutes; or
- 18 4. Receiving preference in employment or assignment over other
19 substitutes.

20 (4) No superintendent shall assign a certified or classified staff person to an alternative
21 education program as part of any disciplinary action taken pursuant to KRS 161.011
22 or 161.790 as part of a corrective action plan established pursuant to the local
23 district evaluation plan.

24 (5) No superintendent shall initially employ in any position in the district any person
25 who is a violent offender or has been convicted of a sex crime as defined by KRS
26 17.165 which is classified as a felony or persons with an administrative finding of
27 child abuse or neglect in records maintained by the Cabinet for Health and Family

1 Services. The superintendent may employ, at his or her discretion, except at a
2 Kentucky Educational Collaborative for State Agency Children program, persons
3 convicted of sex crimes classified as a misdemeanor.

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

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

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

- 18 (b) 1. The requirements of paragraph (a) of this subsection shall not apply to:
- 19 a. Classified and certified individuals employed by the school district
20 prior to June 27, 2019;
 - 21 b. Certified individuals who were employed in another certified
22 position in a Kentucky school district within six (6) months of the
23 date of hire and who had previously submitted to a national and
24 state criminal background check and who have a clear CA/N check
25 for the previous employment; or
 - 26 c. Student teachers who have submitted to and provide a copy of a
27 national and state criminal background check by the Department

1 of Kentucky State Police and the Federal Bureau of Investigation
2 through an accredited teacher education institution in which the
3 student teacher is enrolled and who have a clear CA/N check.

4 2. The Education Professional Standards Board may promulgate
5 administrative regulations to impose additional qualifications to meet
6 the requirements of Public Law 92-544;

7 (c) A parent member may serve prior to the receipt of the criminal history
8 background check and CA/N letter required by paragraph (a) of this
9 subsection but shall be removed from the council on receipt by the school
10 district of a report documenting a record of abuse or neglect, or a sex crime or
11 criminal offense against a victim who is a minor as defined in KRS 17.500, or
12 as a violent offender as defined in KRS 17.165, and no further procedures
13 shall be required; ~~and~~

14 (d) A superintendent may require a volunteer or a visitor to submit to a national
15 and state criminal history background check by the Department of Kentucky
16 State Police and the Federal Bureau of Investigation and have a clear CA/N
17 check, provided by the individual; and~~[-]~~

18 (e) The superintendent of a school district operating under an alternative
19 transportation plan approved by the Kentucky Department of Education in
20 accordance with Section 1 of this Act shall require the driver of any non-
21 school bus passenger vehicle authorized to transport students to and from
22 school pursuant to the alternative transportation plan to:

23 1. Submit to an annual national and state criminal background check by
24 the Department of Kentucky State Police and the Federal Bureau of
25 Investigation;

26 2. Provide a biannual driving history record check performed by the
27 Transportation Cabinet; and

1 **3. Provide an annual clear CA/N check.**

- 2 (7) (a) If a certified or classified position remains unfilled after July 31 or if a
3 vacancy occurs during a school term, a superintendent may employ an
4 individual, who will have supervisory or disciplinary authority over minors,
5 on probationary status pending receipt of the criminal history background
6 check and a clear CA/N check, provided by the individual. Application for the
7 criminal record and a request for a clear CA/N check of a probationary
8 employee shall be made no later than the date probationary employment
9 begins.
- 10 (b) Employment shall be contingent on the receipt of the criminal history
11 background check documenting that the probationary employee has no record
12 of a sex crime nor as a violent offender as defined in KRS 17.165 and receipt
13 of a letter, provided by the individual, from the Cabinet for Health and Family
14 Services stating the employee is clear to hire based on no administrative
15 findings of child abuse or neglect found through a background check of child
16 abuse and neglect records maintained by the Cabinet for Health and Family
17 Services.
- 18 (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary,
19 probationary employment under this section shall terminate on receipt by the
20 school district of a criminal history background check documenting a record
21 of a sex crime or as a violent offender as defined in KRS 17.165 and no
22 further procedures shall be required.
- 23 (8) The provisions of KRS 161.790 shall apply to terminate employment of a certified
24 employee on the basis of a criminal record other than a record of a sex crime or as a
25 violent offender as defined in KRS 17.165, or on the basis of a CA/N check
26 showing an administrative finding of child abuse or neglect.
- 27 (9) (a) All fingerprints requested under this section shall be on an applicant

1 fingerprint card provided by the Department of Kentucky State Police. The
2 fingerprint cards shall be forwarded to the Federal Bureau of Investigation
3 from the Department of Kentucky State Police after a state criminal
4 background check is conducted. The results of the state and federal criminal
5 background check shall be sent to the hiring superintendent. Any fee charged
6 by the Department of Kentucky State Police, the Federal Bureau of
7 Investigation, and the Cabinet for Health and Family Services shall be an
8 amount no greater than the actual cost of processing the request and
9 conducting the search.

10 (b) Each application form, provided by the employer to an applicant for a
11 certified or classified position, shall conspicuously state the following: "FOR
12 THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL
13 AND STATE CRIMINAL HISTORY BACKGROUND CHECK AND A
14 LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET
15 FOR HEALTH AND FAMILY SERVICES STATING THE APPLICANT
16 HAS NO ADMINISTRATIVE FINDINGS OF CHILD ABUSE OR
17 NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD
18 ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET
19 FOR HEALTH AND FAMILY SERVICES."

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

24 (10) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary,
25 when an employee of the school district is charged with any offense which is
26 classified as a felony, the superintendent may transfer the employee to a second
27 position until such time as the employee is found not guilty, the charges are

1 dismissed, the employee is terminated, or the superintendent determines that further
2 personnel action is not required. The employee shall continue to be paid at the same
3 rate of pay he or she received prior to the transfer. If an employee is charged with
4 an offense outside of the Commonwealth, this provision may also be applied if the
5 charge would have been treated as a felony if committed within the
6 Commonwealth. Transfers shall be made to prevent disruption of the educational
7 process and district operations and in the interest of students and staff and shall not
8 be construed as evidence of misconduct.

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

16 (12) The form for requesting a CA/N check shall be made available on the Cabinet for
17 Health and Family Services website.

18 ➔Section 3. KRS 156.990 is amended to read as follows:

19 (1) Any witness who fails, without legal excuse, to attend or to testify, when required
20 by the chief state school officer under these provisions, shall be fined not more than
21 twenty-five dollars (\$25) for each offense.

22 (2) Any person who violates any of the provisions of KRS 156.400 to 156.470 shall be
23 fined not more than five hundred dollars (\$500) or imprisoned not more than three
24 (3) months, or both.

25 (3) A violation of subsection (1) of KRS 156.483 shall cause the Department of
26 Education to be fined not less than five hundred dollars (\$500) or more than one
27 thousand dollars (\$1,000).

1 **(4) Any person who violates subsection (2)(c) of Section 1 of this Act by operating a**
2 **school bus or other district-owned or district-leased vehicle to transport a student**
3 **or students without a valid, active license to operate that motor vehicle within the**
4 **Commonwealth shall be guilty of a Class D felony.**

5 ➔Section 4. Whereas the General Assembly is committed to efficiency in pupil
6 transportation, an emergency is declared to exist, and this Act takes effect upon its
7 passage and approval by the Governor or upon its otherwise becoming a law.