

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 218A IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section, "hospital" means a facility licensed pursuant to KRS*
6 *Chapter 216B as either an acute care hospital, psychiatric hospital, rehabilitation*
7 *hospital, or chemical dependency treatment facility.*

8 *(2) Any person who unlawfully traffics in a controlled substance classified in*
9 *Schedule I, II, III, IV, or V, or a controlled substance analogue, in any hospital*
10 *building, on hospital grounds, or on any premises owned or controlled by a*
11 *hospital shall be guilty of a Class D felony, unless a more severe penalty is set*
12 *forth in this chapter, in which case the higher penalty shall apply.*

13 *(3) The provisions of subsection (2) of this section shall not apply to any*
14 *misdemeanor offense relating to salvia.*

15 *(4) Each hospital shall display in prominent locations, which may include parking*
16 *lots, lobbies, waiting rooms, and cafeterias, a sign at least six (6) inches high and*
17 *fourteen (14) inches wide stating:*

18 **UNLAWFUL POSSESSION OR TRAFFICKING OF A**
19 **CONTROLLED SUBSTANCE ON HOSPITAL**
20 **PROPERTY IN KENTUCKY IS A FELONY PUNISHABLE**
21 **BY A MAXIMUM OF FIVE (5) YEARS IN PRISON AND A**
22 **TEN THOUSAND DOLLAR (\$10,000) FINE.**

23 *Failure to post the sign shall not relieve any person of liability under this section.*

24 ➔Section 2. KRS 218A.1415 is amended to read as follows:

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

27 (a) A controlled substance that is classified in Schedules I or II and is a narcotic

- 1 drug;
- 2 (b) A controlled substance analogue;
- 3 (c) Methamphetamine;
- 4 (d) Lysergic acid diethylamide;
- 5 (e) Phencyclidine;
- 6 (f) Gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of
- 7 isomers, and analogues; or
- 8 (g) Flunitrazepam, including its salts, isomers, and salts of isomers.

9 (2) **Except as provided in subsection (3) of this section,** possession of a controlled

10 substance in the first degree is a Class D felony subject to the following provisions:

- 11 (a) The maximum term of incarceration shall be no greater than three (3) years,
- 12 notwithstanding KRS Chapter 532;
- 13 (b) For a person's first or second offense under this section, he or she may be
- 14 subject to a period of:
- 15 1. Deferred prosecution pursuant to KRS 218A.14151; or
- 16 2. Presumptive probation;
- 17 (c) Deferred prosecution under paragraph (b) of this subsection shall be the
- 18 preferred alternative for a first offense; and
- 19 (d) If a person does not enter a deferred prosecution program for his or her first or
- 20 second offense, he or she shall be subject to a period of presumptive
- 21 probation, unless a court determines the defendant is not eligible for
- 22 presumptive probation as defined in KRS 218A.010.

23 **(3) (a) Possession of a controlled substance in any hospital building, on hospital**

24 **grounds, or on any premises owned or controlled by a hospital is a Class D**

25 **felony, unless a more severe penalty is set forth in this chapter, in which**

26 **case the higher penalty shall apply.**

27 **(b) As used in this subsection, "hospital" means a facility licensed pursuant to**

1 *KRS Chapter 216B as either an acute care hospital, psychiatric hospital,*
2 *rehabilitation hospital, or chemical dependency treatment facility.*