

1 AN ACT relating to orders of protection.

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

3 ➔Section 1. KRS 403.735 is amended to read as follows:

- 4 (1) Prior to or at a hearing on a petition for an order of protection:
- 5 (a) The court may obtain the respondent's Kentucky criminal and protective order  
6 history and utilize that information to assess what relief and which sanctions  
7 may protect against danger to the petitioner or other person for whom  
8 protection is being sought, with the information so obtained being provided to  
9 the parties in accordance with the Kentucky Rules of Civil Procedure; and
- 10 (b) If the petitioner or respondent is a minor, the court shall inquire whether the  
11 parties attend school in the same school system to assist the court in imposing  
12 conditions in the order that have the least disruption in the administration of  
13 education to the parties while providing appropriate protection to the  
14 petitioner.
- 15 (2) (a) If the adverse party is not present at the hearing ordered pursuant to KRS  
16 403.730 and has not been served, a previously issued emergency protective  
17 order shall remain in place, and the court shall direct the issuance of a new  
18 summons for a hearing set not more than fourteen (14) days in the future. If  
19 service has not been made on the adverse party before that hearing or a  
20 subsequent hearing, the emergency protective order shall remain in place, and  
21 the court shall continue the hearing and issue a new summons with a new date  
22 and time for the hearing to occur, which shall be within fourteen (14) days of  
23 the originally scheduled date for the continued hearing. The court shall repeat  
24 the process of continuing the hearing and reissuing a new summons until the  
25 adverse party is served in advance of the scheduled hearing. If service has not  
26 been made on the respondent at least seventy-two (72) hours prior to the  
27 scheduled hearing, the court may continue the hearing no more than fourteen

1 (14) days in the future. In issuing the summons, the court shall simultaneously  
2 transmit a copy of the summons or notice of its issuance and provisions to the  
3 petitioner. Upon the request of the petitioner, the court may excuse the  
4 petitioner from future court appearances until the respondent has been  
5 served.

6 (b) The provisions of this section permitting the continuance of an emergency  
7 protective order shall be limited to six (6) months from the issuance of the  
8 emergency protective order. If the respondent has not been served within that  
9 period, the order shall be rescinded without prejudice. Prior to the expiration  
10 of the emergency protective order, the court shall provide notice to the  
11 petitioner stating that, if the petitioner does not file a new petition, the order  
12 shall be rescinded without prejudice.

13 ➔Section 2. KRS 403.763 is amended to read as follows:

14 (1) Violation of the terms or conditions of an order of protection after the person has  
15 been served or given notice of the order shall constitute contempt of court and a  
16 criminal offense under this section. Once a criminal or contempt proceeding has  
17 been initiated, the other shall not be undertaken regardless of the outcome of the  
18 original proceeding.

19 (2) (a) Court proceedings for contempt of court for violation of an order of protection  
20 shall be held in the county where the order was issued or filed.

21 (b) Court proceedings for a criminal violation of an order of protection shall  
22 follow the rules of venue applicable to criminal cases generally.

23 (3) Nothing in this section shall preclude the Commonwealth from prosecuting and  
24 convicting the respondent of criminal offenses other than violation of an order of  
25 protection.

26 (4) (a) A person is guilty of a violation of an order of protection when he or she  
27 intentionally violates the provisions of an order of protection after the person

1 has been served or given notice of the order.

2 (b) Violation of an order of protection is a Class A misdemeanor, unless the  
 3 person who stands convicted of a violation under this subsection has been  
 4 convicted of two (2) or more previous violations of orders of protection  
 5 under this subsection, subsection (4)(a) of Section 4 of this Act, or KRS  
 6 508.155 or 510.037 within the last five (5) years, in which case it is a Class  
 7 D felony if the third or subsequent violation involves the:

8 1. Use or attempted use of physical force; or

9 2. Threat of physical harm.

10 The protected person in the third or subsequent violation is not required to  
 11 be the same protected person in the previous violations. The five (5) year  
 12 period shall be measured from the dates on which the offenses occurred for  
 13 which the judgments of conviction were entered.

14 ➔Section 3. KRS 456.050 is amended to read as follows:

15 (1) Prior to or at a hearing on a petition for an interpersonal protective order:

16 (a) The court may obtain the respondent's Kentucky criminal and protective order  
 17 history and utilize that information to assess what relief and which sanctions  
 18 may protect against danger to the petitioner or other person for whom  
 19 protection is being sought, with the information so obtained being provided to  
 20 the parties in accordance with the Kentucky Rules of Civil Procedure; and

21 (b) If the petitioner or respondent is a minor, the court shall inquire whether the  
 22 parties attend school in the same school system to assist the court in imposing  
 23 conditions in the order that have the least disruption in the administration of  
 24 education to the parties while providing appropriate protection to the  
 25 petitioner.

26 (2) (a) If the adverse party is not present at the hearing ordered pursuant to KRS  
 27 456.040 and has not been served, a previously issued temporary interpersonal

1 protective order shall remain in place, and the court shall direct the issuance  
2 of a new summons for a hearing set not more than fourteen (14) days in the  
3 future. If service has not been made on the adverse party before that hearing  
4 or a subsequent hearing, the temporary interpersonal protective order shall  
5 remain in place, and the court shall continue the hearing and issue a new  
6 summons with a new date and time for the hearing to occur, which shall be  
7 within fourteen (14) days of the originally scheduled date for the continued  
8 hearing. The court shall repeat the process of continuing the hearing and  
9 reissuing a new summons until the adverse party is served in advance of the  
10 scheduled hearing. If service has not been made on the respondent at least  
11 seventy-two (72) hours prior to the scheduled hearing, the court may continue  
12 the hearing no more than fourteen (14) days in the future. In issuing the  
13 summons, the court shall simultaneously transmit a copy of the summons or  
14 notice of its issuance and provisions to the petitioner. Upon the request of the  
15 petitioner, the court may excuse the petitioner from future court  
16 appearances until the respondent has been served.

- 17 (b) The provisions of this section permitting the continuance of an interpersonal  
18 protective order shall be limited to six (6) months from the issuance of the  
19 temporary interpersonal protective order. If the respondent has not been  
20 served within that period, the order shall be rescinded without prejudice. Prior  
21 to the expiration of the temporary interpersonal protective order, the court  
22 shall provide notice to the petitioner stating that, if the petitioner does not file  
23 a new petition, the order shall be rescinded without prejudice.

24 ➔Section 4. KRS 456.180 is amended to read as follows:

- 25 (1) Violation of the terms or conditions of an order of protection after the person has  
26 been served or given notice of the order shall constitute contempt of court and a  
27 criminal offense under this section. Once a criminal or contempt proceeding has

1           been initiated, the other shall not be undertaken regardless of the outcome of the  
2           original proceeding.

3       (2) (a) Court proceedings for contempt of court for violation of an order of protection  
4           shall be held in the county where the order was issued or filed.

5       (b) Court proceedings for a criminal violation of an order of protection shall  
6           follow the rules of venue applicable to criminal cases generally.

7       (3) Nothing in this section shall preclude the Commonwealth from prosecuting and  
8           convicting the respondent of criminal offenses other than violation of an order of  
9           protection.

10      (4) (a) A person is guilty of a violation of an order of protection when he or she  
11           intentionally violates the provisions of an interpersonal protective order after  
12           the person has been served or given notice of the order.

13      (b) Violation of an order of protection is a Class A misdemeanor, unless the  
14           person who stands convicted of a violation under this subsection has been  
15           convicted of two (2) or more previous violations of orders of protection  
16           under this subsection, subsection (4)(a) of Section 2 of this Act, or KRS  
17           508.155 or 510.037 within the last five (5) years, in which case it is a Class  
18           D felony if the third or subsequent violation involves the:

19           1. Use or attempted use of physical force; or

20           2. Threat of physical harm.

21           The protected person in the third or subsequent violation is not required to  
22           be the same protected person in the previous violations. The five (5) year  
23           period shall be measured from the dates on which the offenses occurred for  
24           which the judgments of conviction were entered.