

1 AN ACT relating to chaplains in schools.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) Each school district and public charter school shall employ a chaplain or accept*
6 *a chaplain as a volunteer to provide support, services, and programs for students,*
7 *staff, and parents as assigned by a local school board or board of directors.*
8 *Nothing in this section shall prohibit a school district or public charter school*
9 *from employing or accepting as a volunteer more than one (1) chaplain.*

10 *(2) A chaplain employed by or volunteering for a local school district or public*
11 *charter school shall:*

12 *(a) Be sufficiently trained or certified as a chaplain, as determined by the*
13 *school district or public charter school; and*

14 *(b) Not be required to be a certified teacher.*

15 *(3) A school district or public charter school shall require employed and volunteer*
16 *chaplains to submit to background checks and clear CA/N checks pursuant to*
17 *subsection (6) of Section 2 of this Act.*

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

19 (1) As used in this section:

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

23 1. Not appealed through an administrative hearing conducted in
24 accordance with KRS Chapter 13B;

25 2. Upheld at an administrative hearing conducted in accordance with KRS
26 Chapter 13B and not appealed to a Circuit Court; or

27 3. Upheld by a Circuit Court in an appeal of the results of an

1 administrative hearing conducted in accordance with KRS Chapter 13B;

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

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

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

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

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

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

1 and by the administrative regulations of the Kentucky Board of Education and
2 of the employing board. Supervisors, principals, teachers, and other
3 employees may be appointed by the superintendent for any school year at any
4 time after February 1 preceding the beginning of the school year. No
5 superintendent of schools shall appoint or transfer himself or herself to
6 another position within the school district;

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

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

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

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

26 (a) No relative of a superintendent of schools shall be an employee of the school
27 district. However, this shall not apply to a relative who is a classified or

1 certified employee of the school district for at least thirty-six (36) months
 2 prior to the superintendent assuming office and who is qualified for the
 3 position the employee holds. A superintendent's spouse who has previously
 4 been employed in a school system may be an employee of the school district.
 5 A superintendent's spouse who is employed under this provision shall not hold
 6 a position in which the spouse supervises certified or classified employees. A
 7 superintendent's spouse may supervise teacher aides and student teachers.
 8 However, the superintendent shall not promote a relative who continues
 9 employment under an exception of this subsection;

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

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

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

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

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

26 (5) No superintendent shall employ in any position in the district any person who:

- 27 (a) Has been convicted of an offense that would classify a person as a violent

- 1 offender under KRS 439.3401;
- 2 (b) Has been convicted of a sex crime as defined by KRS 17.500 or a
3 misdemeanor offense under KRS Chapter 510;
- 4 (c) Is required to register as a sex offender under KRS 17.500 to 17.580; or
- 5 (d) Has an administrative finding of child abuse or neglect in records maintained
6 by the Cabinet for Health and Family Services.
- 7 (6) Requirements for background checks shall be as follows:
- 8 (a) A superintendent shall require the following individuals to submit to a
9 national and state criminal background check by the Department of Kentucky
10 State Police and the Federal Bureau of Investigation and have a clear CA/N
11 check, provided by the individual:
- 12 1. Each new certified or classified hire;
 - 13 2. A nonfaculty coach or nonfaculty assistant as defined under KRS
14 161.185;
 - 15 3. A student teacher;
 - 16 4. A school-based decision making council parent member; and
 - 17 5. Any adult, including a volunteer chaplain, who is permitted access to
18 school grounds on a regularly scheduled and continuing basis pursuant
19 to a written agreement for the purpose of providing services directly to a
20 student or students as part of a school-sponsored program or activity;
- 21 (b) 1. The requirements of paragraph (a) of this subsection shall not apply to:
- 22 a. Classified and certified individuals employed by the school district
23 prior to June 27, 2019;
 - 24 b. Certified individuals who were employed in another certified
25 position in a Kentucky school district within six (6) months of the
26 date of hire and who had previously submitted to a national and
27 state criminal background check and who have a clear CA/N check

- 1 for the previous employment; or
- 2 c. Student teachers who have submitted to and provide a copy of a
- 3 national and state criminal background check by the Department
- 4 of Kentucky State Police and the Federal Bureau of Investigation
- 5 through an accredited teacher education institution in which the
- 6 student teacher is enrolled and who have a clear CA/N check.
- 7 2. The Education Professional Standards Board may promulgate
- 8 administrative regulations to impose additional qualifications to meet
- 9 the requirements of Pub. L. No. 92-544;
- 10 (c) A parent member may serve prior to the receipt of the criminal history
- 11 background check and CA/N letter required by paragraph (a) of this
- 12 subsection but shall be removed from the council on receipt by the school
- 13 district of a report documenting a record of abuse or neglect, or a sex crime or
- 14 criminal offense against a victim who is a minor as defined in KRS 17.500, or
- 15 as a violent offender as defined in KRS 17.165, and no further procedures
- 16 shall be required;
- 17 (d) A superintendent may require a volunteer or a visitor to submit to a national
- 18 and state criminal history background check by the Department of Kentucky
- 19 State Police and the Federal Bureau of Investigation and have a clear CA/N
- 20 check, provided by the individual; and
- 21 (e) The superintendent of a school district operating under an alternative
- 22 transportation plan approved by the Kentucky Department of Education in
- 23 accordance with KRS 156.153(3) shall require the driver of any non-school
- 24 bus passenger vehicle authorized to transport students to and from school
- 25 pursuant to the alternative transportation plan who does not have a valid
- 26 commercial driver's license issued in accordance with KRS Chapter 281A
- 27 with an "S" endorsement to:

- 1 1. Submit to a national and state criminal background check by the
2 Department of Kentucky State Police and the Federal Bureau of
3 Investigation at least once every three (3) years and a criminal records
4 check conducted in accordance with KRS 27A.090 in all other years;
- 5 2. Submit to drug testing consistent with the requirements of 49 C.F.R. pt.
6 40;
- 7 3. Provide a biannual driving history record check performed by the
8 Transportation Cabinet;
- 9 4. Provide an annual clear CA/N check;
- 10 5. Immediately notify the superintendent of any conviction for a violation
11 under KRS Chapter 189 for which penalty points are assessed; and
- 12 6. Immediately notify the superintendent of any citation or arrest for a
13 violation of any provision of KRS Chapter 189A. The superintendent
14 shall inform the Kentucky Department of Education of the notification.
- 15 (7) (a) If a certified or classified position remains unfilled after July 31 or if a
16 vacancy occurs during a school term, a superintendent may employ an
17 individual, who will have supervisory or disciplinary authority over minors,
18 on probationary status pending receipt of the criminal history background
19 check and a clear CA/N check, provided by the individual. Application for the
20 criminal record and a request for a clear CA/N check of a probationary
21 employee shall be made no later than the date probationary employment
22 begins.
- 23 (b) Employment shall be contingent on the receipt of the criminal history
24 background check documenting that the probationary employee has no record
25 of a sex crime nor as a violent offender as defined in KRS 17.165 and receipt
26 of a letter, provided by the individual, from the Cabinet for Health and Family
27 Services stating the employee is clear to hire based on no administrative

1 findings of child abuse or neglect found through a background check of child
2 abuse and neglect records maintained by the Cabinet for Health and Family
3 Services.

4 (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary,
5 probationary employment under this section shall terminate on receipt by the
6 school district of a criminal history background check documenting a record
7 of a sex crime or as a violent offender as defined in KRS 17.165 and no
8 further procedures shall be required.

9 (8) The provisions of KRS 161.790 shall apply to terminate employment of a certified
10 employee on the basis of a criminal record other than a record of a sex crime or as a
11 violent offender as defined in KRS 17.165, or on the basis of a CA/N check
12 showing an administrative finding of child abuse or neglect.

13 (9) (a) All fingerprints requested under this section shall be on an applicant
14 fingerprint card provided by the Department of Kentucky State Police. The
15 fingerprint cards shall be forwarded to the Federal Bureau of Investigation
16 from the Department of Kentucky State Police after a state criminal
17 background check is conducted. The results of the state and federal criminal
18 background check shall be sent to the hiring superintendent. Any fee charged
19 by the Department of Kentucky State Police, the Federal Bureau of
20 Investigation, and the Cabinet for Health and Family Services shall be an
21 amount no greater than the actual cost of processing the request and
22 conducting the search.

23 (b) Each application form, provided by the employer to an applicant for a
24 certified or classified position, shall conspicuously state the following: "FOR
25 THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL
26 AND STATE CRIMINAL HISTORY BACKGROUND CHECK AND A
27 LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET

1 FOR HEALTH AND FAMILY SERVICES STATING THE APPLICANT
2 HAS NO ADMINISTRATIVE FINDINGS OF CHILD ABUSE OR
3 NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD
4 ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET
5 FOR HEALTH AND FAMILY SERVICES."

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

10 (10) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary,
11 when an employee of the school district is charged with any offense which is
12 classified as a felony, the superintendent may transfer the employee to a second
13 position until such time as the employee is found not guilty, the charges are
14 dismissed, the employee is terminated, or the superintendent determines that further
15 personnel action is not required. The employee shall continue to be paid at the same
16 rate of pay he or she received prior to the transfer. If an employee is charged with
17 an offense outside of the Commonwealth, this provision may also be applied if the
18 charge would have been treated as a felony if committed within the
19 Commonwealth. Transfers shall be made to prevent disruption of the educational
20 process and district operations and in the interest of students and staff and shall not
21 be construed as evidence of misconduct.

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

1 to dismissal or termination.

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

4 ➔Section 3. This Act may be cited as the Teachers and School Chaplains Act.