

1 AN ACT relating to the waiver of qualified official immunity.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) Except as otherwise provided in subsection (2) of this section, it shall not be a*
6 *defense or immunity to any action brought against an employee or agent of a*
7 *public postsecondary education institution in his or her official capacity that the*
8 *employee or agent:*

9 *(a) Acted in good faith and within the scope of his or her employment or*
10 *authority in exercising discretion and judgment or personal deliberation in*
11 *performing an act or omission;*

12 *(b) Believed, reasonably or otherwise, that his or her conduct was lawful at the*
13 *time when it was committed; or*

14 *(c) Deprived legal rights, privileges, or immunities, by an act or omission, that*
15 *were not clearly established at the time of their deprivation, or that the state*
16 *of the law was otherwise such that the employee or agent could not*
17 *reasonably have been expected to know whether his or her conduct was*
18 *lawful.*

19 *(2) Subsection (1) of this section shall not apply to an employee or agent of public*
20 *postsecondary education institution who is acting in his or her official capacity as*
21 *a law enforcement officer as defined in KRS 15.310.*

22 ➔Section 2. KRS 164.6949 is amended to read as follows:

23 Nothing in KRS 164.6941 to 164.6951 shall be interpreted as:

24 (1) Waiving the immunity of any public postsecondary educational institution~~[- or its~~
25 ~~employees, agents, or authorized volunteers];~~

26 (2) Granting name, image, or likeness rights or requiring compensation for the use of
27 the name, image, or likeness of any student-athlete prior to March 9, 2022;

- 1 (3) Establishing student-athletes as employees or independent contractors of an
2 institution or an association; or
- 3 (4) Modifying the powers or waiving the rules or regulations of the Kentucky Board of
4 Education or the agency designated to manage interscholastic athletics under KRS
5 156.070.