

1 AN ACT relating to operations in the Office of the Attorney General.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 15.800 TO 15.876 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) Each employee of the Department of Child Support Services within the*  
6 *Department of Law, including contract staff, with access to or use of federal tax*  
7 *information shall submit to a criminal background investigation by means of a*  
8 *fingerprint check by the Department of Kentucky State Police and the Federal*  
9 *Bureau of Investigation.*

10 *(2) The results of the national and state criminal background checks shall be sent to*  
11 *the Attorney General.*

12 *(3) The Department of Law may register employees or contract staff in the rap back*  
13 *system.*

14 *(4) Any fee charged by the Department of Kentucky State Police or for the Federal*  
15 *Bureau of Investigation background check or enrollment in the rap back system*  
16 *shall be an amount no greater than the actual cost of processing the request and*  
17 *conducting the background check.*

18 *(5) The Department of Law shall promulgate administrative regulations in*  
19 *accordance with KRS Chapter 13A to implement this section.*

20 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO  
21 READ AS FOLLOWS:

22 *(1) As used in this section:*

23 *(a) "Records" means:*

24 *1. Any document or electronically stored information, including writings,*  
25 *drawings, graphs, charts, photographs, sound recordings, images, and*  
26 *other data or data compilations stored in any medium from which*  
27 *information can be obtained either directly or, if necessary, after*

1 translation by the responding party into a reasonably usable form;

2 2. Any tangible thing; or

3 3. Any other document or electronically stored information not covered  
 4 by subparagraph 1. or 2. of this paragraph that is created or received  
 5 by, or coming under the jurisdiction of, any state agency that  
 6 documents the organization, function, policies, decisions, procedures,  
 7 operations, or other activities of the agency; and

8 (b) "State agency" means any department, board, commission, institution,  
 9 division, office, organized body, or other functional group that is authorized  
 10 by the Constitution of Kentucky or the laws of this Commonwealth to  
 11 exercise, perform, or discharge any executive, legislative, judicial, or  
 12 administrative jurisdiction, powers, duties, rights, or obligations of state  
 13 government.

14 (2) (a) Each state agency is for all purposes, including in any action brought by the  
 15 Attorney General on behalf of the Commonwealth under the authority of  
 16 this chapter, KRS Chapter 367, or common law, the custodian of its own  
 17 records and shall be in possession, custody, or control of its own records.

18 (b) Except for records of the office of the Attorney General, the records of each  
 19 state agency are not in the possession, custody, or control of the Attorney  
 20 General.

21 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO  
 22 READ AS FOLLOWS:

23 (1) Any action brought by the Attorney General, whether under this chapter, KRS  
 24 Chapter 367, common law, or otherwise, shall be commenced within ten (10)  
 25 years after the cause of action accrued unless the statute under which the  
 26 Attorney General is bringing the action provides a different fixed period of time.

27 (2) For purposes of this section, a cause of action shall be deemed to accrue at the

1 *time the injury or violation on which the action is based is first discovered by the*  
 2 *Attorney General or in the exercise of reasonable care should have been*  
 3 *discovered by the Attorney General, whichever is later.*

4 ➔Section 4. KRS 13B.140 is amended to read as follows:

5 (1) (a) Except as provided in KRS 452.005, all final orders of an agency shall be  
 6 subject to judicial review in accordance with~~the provisions of~~ this chapter.

7 (b) A party shall institute an appeal by filing a petition in the Circuit Court of  
 8 venue, as provided in the agency's enabling statutes, within thirty (30) days  
 9 after the final order of the agency is mailed or delivered by personal service.  
 10 If venue for appeal is not stated in the enabling statutes, a party may appeal to  
 11 Franklin Circuit Court or the Circuit Court of the county in which the  
 12 appealing party resides or operates a place of business.

13 (c) ~~[Copies of the petition shall be served by the petitioner upon the agency and~~  
 14 ~~all parties of record.]~~The petition shall include the names and addresses of all  
 15 parties to the proceeding and the agency involved, and a statement of the  
 16 grounds on which the review is requested. The petition shall be accompanied  
 17 by a copy of the final order. *Copies of the petition shall be served by the*  
 18 *petitioner upon the agency and all parties of record.*

19 (d) *The hearing officer shall not be named as a party in any Circuit Court*  
 20 *action seeking judicial review of the final order of any agency, and shall*  
 21 *have no duty to defend his or her decision in Circuit Court or any*  
 22 *subsequent proceeding.*

23 (2) A party may file a petition for judicial review only after the party has exhausted all  
 24 administrative remedies available within the agency whose action is being  
 25 challenged, and within any other agency authorized to exercise administrative  
 26 review.

27 (3) Within twenty (20) days after the service of the petition, or within further time

1 allowed by the court, the agency shall transmit to the reviewing court the original or  
2 a certified copy of the official record of the proceeding under review. By stipulation  
3 of all parties to the review proceedings, the record may be shortened. The court may  
4 require or permit subsequent correction or additions to the official record. If the  
5 court requests a transcript of proceedings that have not been transcribed, the cost of  
6 the transcription shall be paid by the party initiating the appeal, unless otherwise  
7 agreed to by all parties.

8 (4) A petition for judicial review shall not automatically stay a final order pending the  
9 outcome of the review, unless:

10 (a) An automatic stay is provided by statute upon appeal or at any point in the  
11 administrative proceedings;

12 (b) A stay is permitted by the agency and granted upon request; or

13 (c) A stay is ordered by the Circuit Court of jurisdiction upon petition.

14 ➔Section 5. KRS 216B.115 is amended to read as follows:

15 (1) An appeal to the Franklin Circuit Court may be taken from any final decision of the  
16 cabinet with respect to a certificate-of-need application, a certificate of need, or a  
17 license, by any party to the proceedings.

18 (2) (a) An appeal may be taken by filing a petition for review in the Franklin Circuit  
19 Court within thirty (30) days after notice of the final decision unless a request  
20 for reconsideration has been filed, in which case the petition shall be filed  
21 within fifteen (15) days of the cabinet's decision not to reconsider or notice of  
22 its decision on reconsideration.

23 (b) The petition shall state with specificity~~completely~~ the grounds upon which  
24 the review is sought and shall assign all errors relied upon.

25 (c) The petitioner shall serve a copy of the petition to each person who was a  
26 party to the proceedings.

27 (d) Summons shall be issued upon the petition directing the adverse party or

1 parties to file an answer within twenty (20) days after service of summons.

2 (e) The cabinet shall, within thirty (30) days of~~upon~~ being served with the  
3 summons ~~and within thirty (30) days thereafter~~, file a copy of the record,  
4 duly certified by the secretary, with the cost of the record to be taxed as costs  
5 upon appeal. In lieu of filing of the record, an abstract of the record~~thereof~~  
6 may be filed if all parties to the appeal agree.

7 (3) In any appeal to the Franklin Circuit Court under this section, neither the  
8 Attorney General, nor the Office of Administrative Hearings within the  
9 Department of Law, nor the hearing officer shall be named as a party to the  
10 action and shall have no duty to defend the final order of the cabinet in the  
11 Circuit Court or any subsequent proceedings.

12 ➔Section 6. KRS 322A.030 is amended to read as follows:

13 (1) The board shall meet at least once each calendar year and at other times deemed  
14 necessary by the chair or a quorum of the board upon being given ten (10) days'  
15 notice.

16 (2) A roster showing the names and places of business of all registered professional  
17 geologists shall be published by the secretary of the board each year. Copies of this  
18 roster shall be made available to each person registered, placed on file with the  
19 secretary of the board, and furnished to the public upon request.

20 (3) The board shall pass upon the qualifications of applicants for registration.

21 (4) The board shall require from applicants for registration evidence of their  
22 qualifications and shall judge each applicant on evidence of the applicant's  
23 professional competency and integrity in accordance with administrative  
24 regulations promulgated by the board.

25 (5) The board may promulgate administrative regulations consistent with the provisions  
26 of this chapter appropriate and necessary to the conduct of its responsibilities and  
27 duties.

- 1 (6) The board shall promulgate by administrative regulation a code of professional  
2 conduct, a copy of which shall be distributed to every registered geologist. Mailing  
3 of a copy of this code to persons listed in the roster maintained under subsection (2)  
4 of this section shall constitute due notice to all registrants. The board may revise  
5 and amend the code of ethics from time to time, subject to the consent of the  
6 majority of the registrants, and shall notify each registrant in writing of any  
7 revisions or amendments.
- 8 (7) The board may take appropriate disciplinary action as provided~~[ for ]~~ in KRS  
9 322A.100, but only after written notice has been given **to** the person **against whom**  
10 **action may be taken**~~[concerned]~~ and the person is afforded an opportunity for a  
11 hearing to be conducted in accordance with KRS Chapter 13B.
- 12 (8) Any person or organization may prefer charges of fraud, deceit, gross negligence,  
13 or misconduct against any registrant. The charges shall be in writing, shall be sworn  
14 to by the person or officer of the organization making them, and shall then be filed  
15 with the board.
- 16 (9) Any Kentucky resident~~[ who feels ]~~ aggrieved by any final order of the board may  
17 appeal to the Circuit Court of the county where the person resides or where the  
18 person has his or her principal office in accordance with KRS Chapter 13B. Any  
19 out-of-state resident~~[ who feels ]~~ aggrieved by any final order of the board may  
20 appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.
- 21 ~~(10) [The Attorney General or any assistants designated by him or her shall act as legal~~  
22 ~~advisers to the board and render legal assistance as the board may from time to time~~  
23 ~~require.]~~The board may employ private counsel at its discretion. The cost of private  
24 counsel shall be paid exclusively from funds of the board.
- 25 (11) The board shall establish and maintain necessary offices within this  
26 Commonwealth, employ personnel as necessary, and prescribe their duties and  
27 compensation.

1 (12) For the purposes of enforcing the provisions of this chapter, investigating  
2 complaints or suspected violations of this chapter, and notifying proper law  
3 enforcement authorities, the board may:

- 4 (a) Administer oaths;
- 5 (b) Receive evidence;
- 6 (c) Interview persons;
- 7 (d) Issue subpoenas; and
- 8 (e) Require production of books, papers, documents, or other evidence.

9 ➔Section 7. KRS 367.160 is amended to read as follows:

10 (1) (a) All departments, agencies, officers, and employees of the Commonwealth  
11 shall fully cooperate with the Attorney General in carrying out the functions  
12 of KRS 367.120 to 367.300.

13 **(b) This section and the other provisions of KRS 367.110 to 367.300 shall not**  
14 **be interpreted or construed to abrogate or otherwise conflict with any**  
15 **provision of Section 2 of this Act.**

16 (2) The persons designated by the Attorney General as utility consumer intervenors  
17 shall have the same access to material evidence and information of the Public  
18 Service Commission relating to any case before it as other parties to the case.

19 (3) The persons designated by the Attorney General as health insurance consumer  
20 intervenors shall have the same access to material evidence and information of the  
21 commissioner of the Department of Insurance relating to any health insurance rate  
22 hearings before it as other parties to the hearing.

23 ➔Section 8. KRS 367.990 is amended to read as follows:

24 (1) Any person who violates the terms of a temporary or permanent injunction issued  
25 under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of  
26 not more than twenty-five thousand dollars (\$25,000) per violation. For the  
27 purposes of this section, the Circuit Court issuing an injunction shall retain

1 jurisdiction, and the cause shall be continued, and in such cases the Attorney  
2 General acting in the name of the Commonwealth may petition for recovery of civil  
3 penalties.

4 ~~(2)~~ In any action brought under KRS 367.190, if the court finds that a person is  
5 willfully using or has willfully used a method, act, or practice declared unlawful by  
6 KRS 367.170, the Attorney General, upon petition to the court, may recover, on  
7 behalf of the Commonwealth, a civil penalty of not more than two thousand dollars  
8 (\$2,000) per violation, or where the defendant's conduct is directed at a person aged  
9 sixty (60) or older, a civil penalty of not more than ten thousand dollars (\$10,000)  
10 per violation, if the trier of fact determines that the defendant knew or should have  
11 known that the person aged sixty (60) or older is substantially more vulnerable than  
12 other members of the public.

13 ~~(3)~~ Any person with actual notice that an investigation has begun or is about to begin  
14 pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys,  
15 or falsifies documentary material is guilty of a Class A misdemeanor.

16 ~~(3)~~~~(4)~~ Any person who, in response to a subpoena or demand as provided in KRS  
17 367.240 or 367.250, intentionally falsifies or withholds documents, records, or  
18 pertinent materials that are not privileged shall be subject to a fine as provided in  
19 subsection ~~(2)~~~~(3)~~ of this section.

20 ~~(4)~~~~(5)~~ The Circuit Court of any county in which any plan described in KRS 367.350  
21 is proposed, operated, or promoted may grant an injunction without bond, upon  
22 complaint filed by the Attorney General to enjoin the further operation thereof, and  
23 the Attorney General may ask for and the court may assess civil penalties against  
24 the defendant in an amount not to exceed the sum of five thousand dollars (\$5,000)  
25 which shall be for the benefit of the Commonwealth of Kentucky.

26 ~~(5)~~~~(6)~~ Any person, business, or corporation who knowingly violates the provisions  
27 of KRS 367.540 shall be guilty of a violation. It shall be considered a separate

1 offense each time a magazine is mailed into the state; but it shall be considered only  
2 one (1) offense for any quantity of the same issue of a magazine mailed into  
3 Kentucky.

4 ~~(6)~~~~(7)~~ Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be  
5 guilty of a Class A misdemeanor.

6 ~~(7)~~~~(8)~~ In addition to the penalties contained in this section, the Attorney General,  
7 upon petition to the court, may recover, on behalf of the Commonwealth a civil  
8 penalty of not more than the greater of five thousand dollars (\$5,000) or two  
9 hundred dollars (\$200) per day for each and every violation of KRS 367.175.

10 ~~(8)~~~~(9)~~ Any person who ~~shall~~ willfully and intentionally violates~~violate~~ any  
11 provision of KRS 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

12 ~~(9)~~~~(10)~~ (a) Any person who violates the terms of a temporary or permanent  
13 injunction issued under KRS 367.665 shall forfeit and pay to the  
14 Commonwealth a penalty of not more than five thousand dollars (\$5,000) per  
15 violation. For the purposes of this section, the Circuit Court issuing an  
16 injunction shall retain jurisdiction, and the cause shall be continued, and in  
17 such cases the Attorney General acting in the name of the Commonwealth  
18 may petition for recovery of civil penalties.

19 (b) 1. The Attorney General may, upon petition to a court having jurisdiction  
20 under KRS 367.190, recover on behalf of the Commonwealth from any  
21 person found to have willfully committed an act declared unlawful by  
22 KRS 367.667 a penalty of not more than five thousand dollars (\$5,000)  
23 per violation.

24 2. In addition to any other penalties provided for the commission of the  
25 offense, any person found guilty of violating KRS 367.667(1)(c):

26 a. Shall be punished by a fine of no less than five hundred dollars  
27 (\$500) for the first offense and no less than five thousand dollars

- 1 (\$5,000) for any subsequent offense; and
- 2 b. Pay restitution of any financial benefit secured through conduct
- 3 proscribed by KRS 367.667(1)(c).
- 4 3. The Office of the Attorney General or the appropriate Commonwealth's
- 5 attorney shall have concurrent enforcement powers as to fines, felonies,
- 6 and misdemeanors under this paragraph.
- 7 (c) Any person who knowingly violates any provision of KRS 367.652, 367.653,
- 8 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false
- 9 or incorrect information to the Attorney General in filing statements or reports
- 10 required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.
- 11 ~~(10)~~~~(11)~~ Any dealer who fails to provide a statement under KRS 367.760 or a notice
- 12 under KRS 367.765 shall be liable for a penalty of one hundred dollars (\$100) per
- 13 violation to be collected in the name of the Commonwealth upon action of the
- 14 Attorney General.
- 15 ~~(11)~~~~(12)~~ Any dealer or manufacturer who falsifies a statement under KRS 367.760
- 16 shall be liable for a penalty not exceeding one thousand dollars (\$1,000) to be
- 17 collected in the name of the Commonwealth upon action by the Attorney General.
- 18 ~~(12)~~~~(13)~~ Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or
- 19 367.816 shall be guilty of a Class C felony.
- 20 ~~(13)~~~~(14)~~ Either the Attorney General or the appropriate Commonwealth's attorney shall
- 21 have authority to prosecute violations of KRS 367.801 to 367.819.
- 22 ~~(14)~~~~(15)~~ A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony.
- 23 Either the Attorney General or the appropriate Commonwealth's attorney shall have
- 24 authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.
- 25 ~~(15)~~~~(16)~~ Any person who violates KRS 367.310 shall be guilty of a violation.
- 26 ~~(16)~~~~(17)~~ Any person, partnership, or corporation who violates the provisions of KRS
- 27 367.850 shall be guilty of a Class A misdemeanor.

1 ~~(17)~~~~(18)~~ Any dealer in motor vehicles or any other person who fraudulently changes,  
2 sets back, disconnects, fails to connect, or causes to be changed, set back, or  
3 disconnected, the speedometer or odometer of any motor vehicle, to effect the sale  
4 of the motor vehicle shall be guilty of a Class D felony.

5 ~~(18)~~~~(19)~~ Any person who negotiates a contract of membership on behalf of a club  
6 without having previously fulfilled the bonding requirement of KRS 367.403 shall  
7 be guilty of a Class D felony.

8 ~~(19)~~~~(20)~~ Any person or corporation who operates or attempts to operate a health spa in  
9 violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

10 ~~(20)~~~~(21)~~ (a) Any person who violates KRS 367.832 shall be guilty of a Class C  
11 felony; and

12 (b) The appropriate Commonwealth's attorney shall have authority to prosecute  
13 felony violations of KRS 367.832.

14 ~~(21)~~~~(22)~~ (a) Any person who violates the provisions of KRS 367.855 or 367.857  
15 shall be guilty of a violation. Either the Attorney General or the appropriate  
16 county health department may prosecute violators of KRS 367.855 or  
17 367.857.

18 (b) The provisions of this subsection shall not apply to any retail establishment if  
19 the wholesaler, distributor, or processor fails to comply with the provisions of  
20 KRS 367.857.

21 ~~(22)~~~~(23)~~ Notwithstanding any other provision of law, any telemarketing company,  
22 telemarketer, caller, or merchant shall be guilty of a Class D felony when that  
23 telemarketing company, telemarketer, caller, or merchant three (3) times in one (1)  
24 calendar year knowingly and willfully violates KRS 367.46955(15) by making or  
25 causing to be made an unsolicited telephone solicitation call to a telephone number  
26 that appears in the current publication of the zero call list maintained by the Office  
27 of the Attorney General's Office of Consumer Protection.

1 ~~(23)~~~~(24)~~ Notwithstanding any other provision of law, any telemarketing company,  
2 telemarketer, caller, or merchant shall be guilty of a Class A misdemeanor when  
3 that telemarketing company, telemarketer, caller, or merchant uses a zero call list  
4 identified in KRS 367.46955(15) for any purpose other than complying with the  
5 provisions of KRS 367.46951 to 367.46999.

6 ~~(24)~~~~(25)~~ (a) Notwithstanding any other provision of law, any telemarketing  
7 company, telemarketer, caller, or merchant that violates KRS 367.46951 to  
8 367.46999 shall be assessed a civil penalty of not more than five thousand  
9 dollars (\$5,000) for each offense.

10 (b) The Attorney General, or any person authorized to act in his or her behalf,  
11 shall initiate enforcement of a civil penalty imposed under paragraph (a) of  
12 this subsection.

13 (c) Any civil penalty imposed under paragraph (a) of this subsection may be  
14 compromised by the Attorney General or his or her designated representative.  
15 In determining the amount of the penalty or the amount agreed upon in  
16 compromise, the Attorney General, or his or her designated representative,  
17 shall consider the appropriateness of the penalty to the financial resources of  
18 the telemarketing company, telemarketer, caller, or merchant charged, the  
19 gravity of the violation, the number of times the telemarketing company,  
20 telemarketer, caller, or merchant charged has been cited, and the good faith of  
21 the telemarketing company, telemarketer, caller, or merchant charged in  
22 attempting to achieve compliance, after notification of the violation.

23 (d) If a civil penalty is imposed under this subsection, a citation shall be issued  
24 which describes the violation which has occurred and states the penalty for the  
25 violation. If, within fifteen (15) working days from the receipt of the citation,  
26 the affected party fails to pay the penalty imposed, the Attorney General, or  
27 any person authorized to act in his or her behalf, shall initiate a civil action to

1 collect the penalty. The civil action shall be taken in the court which has  
2 jurisdiction over the location in which the violation occurred.

3 ~~(25)~~~~(26)~~ Any person who violates KRS 367.500 shall be liable for a penalty of two  
4 thousand five hundred dollars (\$2,500) per violation. Either the Attorney General or  
5 the appropriate Commonwealth's attorney may prosecute violations of KRS  
6 367.500.

7 **(26) (a) In any action brought under KRS 367.190, if the court finds that a person is**  
8 **willfully using or has willfully used a method, act, or practice declared**  
9 **unlawful by KRS 367.170, the Attorney General, upon petition to the court,**  
10 **may recover on behalf of the Commonwealth a civil penalty of not more**  
11 **than:**

- 12 **1. Two thousand dollars (\$2,000) per violation; or**  
13 **2. Ten thousand dollars (\$10,000) per violation if the defendant's**  
14 **conduct is directed at a person aged sixty (60) or older, and the trier of**  
15 **fact determines that the defendant knew or should have known that**  
16 **the person is aged sixty (60) or older and substantially more**  
17 **vulnerable than other members of the public.**

18 **(b) For purposes of this subsection:**

- 19 **1. Any method, act, or practice declared unlawful by KRS 367.170 shall**  
20 **constitute a separate violation as to each:**  
21 **a. Consumer to whom a method, act, or practice declared unlawful**  
22 **by KRS 367.170 was directed, communicated, or applied,**  
23 **regardless of whether the consumer suffered actual pecuniary**  
24 **loss;**  
25 **b. Transaction in which a method, act, or practice declared**  
26 **unlawful by KRS 367.170 was employed, including but not**  
27 **limited to each sale, offer, solicitation, advertisement or**

1 advertisement placement, communication, other act connected  
2 with the unlawful conduct; and

3 c. Separately identifiable method, act, or practice declared  
4 unlawful by KRS 367.170, even if arising from the same  
5 transaction or directed at the same consumer; and

6 2. Any method, act, or practice declared unlawful by KRS 367.170 that is  
7 not identified as being in connection with a specific identifiable person  
8 or transaction, but that is continuing in nature, shall constitute a  
9 separate violation for each day that the unlawful method, act, or  
10 practice exists or continues.

11 (c) Proof of actual injury to a consumer as a prerequisite to the assessment of  
12 civil penalties under this subsection shall not be required, as the civil  
13 penalty provisions in this subsection are intended to punish and deter the  
14 violator and not intended solely to compensate injured parties.

15 (d) In determining the amount of the civil penalty established in paragraph (a)  
16 of this subsection to be assessed for each violation, the trier of fact may  
17 consider, either alone or in combination, the following factors:

18 1. Whether the person charged with the violation was acting in good  
19 faith or bad faith;

20 2. The nature, extent, and severity of the injury to consumers and the  
21 public;

22 3. The person's ability to pay;

23 4. The amount of profit or gain obtained through the unlawful conduct;

24 5. The duration of the unlawful conduct;

25 6. The desire to eliminate any benefit derived from the violation and to  
26 deter future violations; and

27 7. Any prior violations of KRS 367.170 by the person.

1 (e) For purposes of this subsection, "person" has the same meaning as in KRS  
 2 367.110.

3 (f) This subsection shall:

4 1. Be liberally construed to effectuate its purpose of protecting  
 5 consumers and the public from unfair, false, misleading, or deceptive  
 6 acts or practices, and to provide the Attorney General the enforcement  
 7 tools necessary to deter unlawful conduct; and

8 2. Not be construed to limit the:

9 a. Methods by which the Attorney General or trier of fact may  
 10 determine the number of violations in any particular action; or

11 b. Right of the trier of fact to determine the number of violations  
 12 for which a person may properly be held responsible based upon  
 13 the circumstances of the case.

14 ➔Section 9. KRS 367.360 is amended to read as follows:

15 To accomplish the objectives and to carry out the duties prescribed by KRS 367.350 the  
 16 Attorney General, in addition to other powers conferred upon him or her by KRS  
 17 367.990~~[(5)]~~, may issue subpoenas to any person, administer an oath or affirmation to  
 18 any person, or conduct hearings in aid of any investigation or inquiry, provided that  
 19 information obtained pursuant to the powers conferred by this section shall not be made  
 20 public or disclosed by the Attorney General or his or her employees beyond the extent  
 21 necessary for law enforcement purposes in the public interest.

22 ➔Section 10. KRS 403.213 is amended to read as follows:

23 (1) The Kentucky child support guidelines may be used by the parent, custodian, or  
 24 agency substantially contributing to the support of the child as the basis for periodic  
 25 updates of child support obligations and for modification of child support orders for  
 26 health care.~~[The provisions of]~~ Any decree respecting child support may be  
 27 modified only as to installments accruing subsequent to the filing of the motion for

1 modification and only upon a showing of a material change in circumstances that is  
2 substantial and continuing.

3 (2) Application of the Kentucky child support guidelines to the circumstances of the  
4 parties at the time of the filing of a motion or petition for modification of the child  
5 support order which results in equal to or greater than a fifteen percent (15%)  
6 change in the amount of support due per month shall be rebuttably presumed to be a  
7 material change in circumstances. Application which results in less than a fifteen  
8 percent (15%) change in the amount of support due per month shall be rebuttably  
9 presumed not to be a material change in circumstances.~~For the one (1) year period~~  
10 ~~immediately following enactment of this statute, the presumption of material~~  
11 ~~change shall be a twenty five percent (25%) change in the amount of child support~~  
12 ~~due rather than the fifteen percent (15%) stated above.~~

13 (3) Unless otherwise agreed in writing or expressly provided in the decree,~~provisions~~  
14 ~~for~~ the support of a child shall be terminated by emancipation of the child unless  
15 the child is a high school student when he or she reaches the age of eighteen (18).  
16 In cases where the child becomes emancipated because of age, but not due to  
17 marriage, while still a high school student, the court-ordered support shall continue  
18 while the child is a high school student, but not beyond completion of the school  
19 year during which the child reaches the age of nineteen (19) years.~~Provisions for~~  
20 The support of the child shall not be terminated by the death of a parent obligated to  
21 support the child. If a parent obligated to pay support dies, the amount of support  
22 may be modified, revoked, or commuted to a lump-sum payment, to the extent just  
23 and appropriate in the circumstances. Emancipation of the child shall not terminate  
24 the obligation of child support arrearages that accrued while the child was an  
25 unemancipated minor.

26 (4) The child support guidelines table shall be reviewed at least once every four (4)  
27 years by a commission consisting of the following persons:

1 (a) ~~[(a)]~~ The secretary of the Cabinet for Health and Family Services or a supervisory  
2 staff person designated by him;

3 ~~[(b)]~~ Two (2) members of the Kentucky Bar Association who have at least six (6)  
4 consecutive years' experience and are presently practicing domestic relations  
5 cases, one (1) member from a metropolitan or large urban area and one (1)  
6 member from a less populated area;

7 ~~[(b)]~~ ~~[(e)]~~ Two (2) Circuit Judges appointed by the Chief Justice of the Kentucky  
8 Supreme Court, one (1) from a metropolitan or large urban area, and one (1)  
9 from a less populated area;

10 ~~[(c)]~~ ~~[(d)]~~ One (1) District Judge appointed by the Chief Justice of the Kentucky  
11 Supreme Court;

12 ~~[(d)]~~ ~~[(e)]~~ Two (2) county attorneys appointed by the president of the County  
13 Attorneys Association, one (1) from a metropolitan or large urban area and  
14 one (1) from a less populated area;

15 ~~[(e)]~~ ~~[(f)]~~ The Attorney General or his ***or her*** designee, who shall be an attorney  
16 from his ***or her*** office;

17 ~~[(f)]~~ ~~[(g)]~~ One (1) person who is a custodial parent;

18 ~~[(g)]~~ ~~[(h)]~~ One (1) person who is a noncustodial parent;

19 ~~[(h)]~~ ~~[(i)]~~ One (1) person who is a parent with split custody; and

20 ~~[(i)]~~ ~~[(j)]~~ One (1) child advocate.

21 The members designated in paragraphs ~~[(f)]~~ ~~[(g)]~~ to ~~[(i)]~~ ~~[(j)]~~ of this subsection shall be  
22 appointed by the Governor from a list of three (3) names for each category  
23 submitted by the ***Attorney General*** ~~[Cabinet for Health and Family Services]~~. If the  
24 status of one (1) of these members changes, the member shall be replaced through  
25 appointment by the Governor from a list of three (3) names submitted by the  
26 ***Attorney General*** ~~[cabinet]~~.

27 (5) The commission shall make a recommendation to the Kentucky General Assembly

1 to ensure that the child support guidelines table results in a determination of  
2 appropriate child support amounts.

3 ➔Section 11. KRS 26A.020 is amended to read as follows:

4 (1) (a) When, from any cause, a judge of any Circuit or District Court fails to attend,  
5 or being in attendance cannot properly preside in an action pending in the  
6 court, or if a vacancy occurs or exists in the office of Circuit or District Judge,  
7 the circuit clerk shall at once certify the facts to the Chief Justice who shall  
8 immediately designate a regular or retired justice or judge of the Court of  
9 Justice as special judge.

10 (b) 1. If ~~any~~<sup>either</sup> party files with the circuit clerk his or her affidavit that  
11 the judge will not afford him or her a fair and impartial trial, or will not  
12 impartially decide an application for a change of venue, the circuit clerk  
13 shall at once certify the facts to the Chief Justice who shall immediately  
14 review the facts and determine whether to designate a regular or retired  
15 justice or judge of the Court of Justice as special judge.

16 2. Any person may submit to the Attorney General his or her affidavit  
17 that the judge will not impartially decide a question of law or a  
18 constitutional challenge to a statute in a pending civil case or appeal.  
19 If the Attorney General determines that the affidavit is made in good  
20 faith and states a prima facie argument that the judge's impartiality  
21 might reasonably be questioned, the Attorney General shall redact any  
22 identifying information from the affidavit regarding the requestor and  
23 submit it to the Chief Justice. If the affidavit contains allegations of a  
24 defamatory nature, the Attorney General may submit the affidavit  
25 under seal. The Chief Justice shall promptly review the facts and  
26 determine whether to designate a regular or retired justice or judge of  
27 the Court of Justice as special judge.

1       (c) Any special judge~~[-sø]~~ selected under this subsection shall have all the  
2           powers and responsibilities of a regular judge of the court.

3       (2) A retired justice or judge serving as a special judge shall be compensated as  
4           provided by KRS 21A.110.

5       ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO  
6       READ AS FOLLOWS:

7       **(1) For the purposes of this section:**

8           **(a) "Compensation" means any money, thing of value, or economic benefit**  
9           **conferred on, or received by, any person in return for services rendered, or**  
10          **to be rendered, by himself or herself or another;**

11          **(b) "Person" means any natural person, corporation, trust, partnership,**  
12          **incorporated or unincorporated association, or any other legal entity; and**

13          **(c) "Veterans' benefits matter" means the preparation, presentation, or**  
14          **prosecution of any claim affecting any person who has filed or expressed an**  
15          **intent to file a claim for any benefit, program, service, commodity, function,**  
16          **status, or entitlement to which is determined to pertain to veterans, their**  
17          **dependents, their survivors, or any other individual eligible for such**  
18          **benefits under the laws and regulations administered by the United States**  
19          **Department of Veterans Affairs or the Kentucky Department of Veterans'**  
20          **Affairs.**

21       **(2) A person shall not receive any compensation for referring any individual to**  
22       **another person to advise or assist the individual with any veterans' benefits**  
23       **matter.**

24       **(3) A person shall not receive any compensation for any services rendered in**  
25       **connection with any claim filed within the one (1) year presumptive period of**  
26       **active duty release unless the veteran signs a waiver stating the veteran:**

27           **(a) Acknowledges he or she is in the presumptive period;**

- 1        (b) Acknowledges there are free benefits claims services available during this  
2            period;
- 3        (c) Waives the use of the free services; and
- 4        (d) Agrees to pay for assistance with the veterans' benefits matter.
- 5        (4) A person seeking to receive compensation for advising, assisting, or consulting  
6            any individual with any veterans' benefits matter shall, before rendering any  
7            services, memorialize all terms regarding the individual's payment of fees for  
8            services rendered in a written agreement signed by both parties that specifies:
- 9            (a) No initial or nonrefundable fee shall be charged; and
- 10          (b) Fees for representation or assistance shall not include interest and shall not  
11            exceed five (5) times the one (1) month increase in benefits, not to exceed  
12            twelve thousand five hundred dollars (\$12,500).
- 13        (5) A person seeking to receive compensation for advising, assisting, or consulting  
14            any individual with any veterans' benefits matter or engaging in the preparation  
15            of an initial claim for a fee shall not:
- 16            (a) Utilize international call centers or data centers for processing any  
17            veterans' personal information;
- 18            (b) Aggressively or directly solicit business regarding any veterans' benefit  
19            matter; or
- 20            (c) Gain direct access to any personal medical, financial, or government  
21            benefits log-in, username, or password information.
- 22        (6) A person seeking to receive compensation for advising, assisting, or consulting  
23            any individual with any veterans' benefits matter may utilize an independent  
24            medical professional for a medical exam but shall not utilize a medical  
25            professional with whom the person has an employment or business relationship.
- 26        (7) A person shall not advertise or guarantee, either directly or by implication, that  
27            any individual is certain to receive specific veterans' benefits or that any

1 individual is certain to receive a specific level, percentage, or amount of veterans'  
2 benefits.

3 (8) (a) A person shall not advise, assist, or consult for compensation any individual  
4 concerning any veterans' benefits matter without clearly providing at the  
5 outset of the business relationship the following disclosure both orally and  
6 in writing:  
7 "This business is not sponsored by, or affiliated with, the United States  
8 Department of Veterans Affairs or the Kentucky Department of Veterans'  
9 Affairs, or any other federally chartered veterans' service organization.  
10 Other organizations, including but not limited to the Kentucky Department  
11 of Veterans' Affairs, a local veterans' service organization, and other  
12 federally chartered veterans' service organizations, may be able to provide  
13 you with this service free of charge. Products or services offered by this  
14 business are not necessarily endorsed by any of these organizations. You  
15 may qualify for other veterans' benefits beyond the benefits for which you  
16 are receiving services here."

17 (b) The written disclosure in paragraph (a) of this subsection shall appear in at  
18 least twelve (12) point font and shall appear in a readily noticeable and  
19 identifiable place in the person's agreement with the individual seeking  
20 services. The individual shall verbally acknowledge understanding of the  
21 oral disclosure and sign the document in which the written disclosure  
22 appears to represent understanding of these provisions. The person offering  
23 services shall retain a copy of the written disclosure while providing  
24 veterans' benefits services for compensation to the individual and for at  
25 least one (1) year after the date on which the service relations terminate.

26 (9) A person that receives compensation for advising, assisting, or consulting any  
27 individual with any veterans' benefits matter for the individual's initial disability

1 claims shall report annually by December 1 to the Kentucky Department of  
2 Veterans' Affairs identifying information of the person to include the:

3 (a) Name or names under which the person conducts business; and

4 (b) Address of principal place of business and address of any office maintained  
5 in Kentucky;

6 (10) A person that receives compensation for advising, assisting, or consulting any  
7 individual with any veterans' benefits matter for the individual's initial disability  
8 claims shall, within one hundred twenty (120) days of the request by Kentucky  
9 Department of Veterans' Affairs, submit a report for the reporting year, with the  
10 following information:

11 (a) Aggregate number of veterans served in Kentucky;

12 (b) Number of veterans' benefits claims approved, denied, and pending;

13 (c) Average claim return time; and

14 (d) Number of veterans who received a successful increase who have a  
15 previously-assigned agent of record in a veterans' benefits matter.

16 Data provided shall exclude any items of personal financial, medical, or other  
17 data deemed confidential, business privileged, or HIPPA-protected information.

18 (11) The Kentucky Department of Veterans' Affairs may, by administrative regulation  
19 promulgated in accordance with KRS Chapter 13A, create and display on its  
20 website a form to assist persons in providing the information required in  
21 subsections (9) and (10) of this section.

22 (12) A violation of any provision of this section shall constitute an unfair, false,  
23 misleading, or deceptive act or practice in the conduct of trade or commerce  
24 under KRS 367.170.

25 (13) Notwithstanding this section, an attorney or law firm seeking to receive  
26 compensation for advising, assisting, or consulting any individual with any  
27 veterans' benefits matter shall be governed by the limitations set forth in 38

1        **C.F.R. sec. 14.636.**

2        ➔Section 13. Whereas litigants have a constitutional right to an impartial arbiter  
3 and attorneys should not be deterred from zealously representing the best interests of  
4 their clients by requesting the disqualification of a judge to ensure this right is protected,  
5 and as the citizens of this Commonwealth have an interest in a judiciary whose  
6 impartiality in specific cases should be above reproach, and whereas the deterrence of  
7 violations of laws enacted to protect consumers is a primary purpose of the Consumer  
8 Protection Act, an emergency is declared to exist, and Sections 8 and 11 of this Act take  
9 effect upon its passage and approval by the Governor or upon its otherwise becoming a  
10 law.