

1 AN ACT relating to school transportation and declaring an emergency.

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

3 ➔Section 1. KRS 156.153 is amended to read as follows:

4 (1) (a) All school buses for which bids are made or bid contracts awarded shall meet
5 the standards and specifications of the Kentucky Department of Education.
6 The term "school bus," as used in this section, shall mean any motor vehicle
7 which meets the standards and specifications for school buses as provided by
8 law or by the standards or specifications of the Kentucky Department of
9 Education authorized by law and used solely in transporting school children
10 and school employees to and from school under the supervision and control
11 and at the direction of school authorities, and shall further include school bus
12 accessory equipment and supplies and replacement equipment considered to
13 be reasonably adaptable for purchase from price contract agreements.

14 (b) The standards and specifications for accessory equipment and supplies and
15 replacement equipment under paragraph (a) of this subsection shall be based
16 on federal safety standards and shall not discriminate among manufacturers
17 unless the Kentucky Department of Education finds evidence that a specific
18 manufacturer's product is defective or dangerous to use.†

19 ~~(c) The Kentucky Department of Education shall provide the list of standards and~~
20 ~~specifications for accessory equipment and supplies and replacement~~
21 ~~equipment to the Finance and Administration Cabinet for the purposes of~~
22 ~~maintaining the price contract list required under KRS 45A.489.]~~

23 (2) School buses shall be clearly marked as transporting students and shall undergo a
24 safety inspection no less than once every thirty (30) days.

25 (3) (a) Districts may also use vehicles owned, leased, or contracted by the district
26 that were designed and built by the manufacturer for passenger transportation
27 of ten (10)~~nine (9)]~~ or fewer passengers, including the driver, for transporting

1 students to and from school along regular bus routes and approved school
2 activities~~[under an alternative transportation plan approved by the Kentucky~~
3 ~~Department of Education]~~.

4 (b) Non-school bus passenger vehicles used under this subsection shall be clearly
5 marked as transporting students and undergo a safety inspection no less than
6 once every thirty (30) days. However, non-school bus passenger vehicles that
7 are not for daily use shall not be required to be inspected more frequently than
8 once every three (3) months.

9 (c) Non-school bus passenger vehicles used under this subsection shall be
10 operated by an employee or contractor of a local school district that has a
11 valid Class D operator's license. An individual that operates a non-school bus
12 passenger vehicle to transport a student or students without a current valid
13 license required by this paragraph shall be subject to the penalties set forth in
14 KRS 156.990(4).

15 (d) The Kentucky Board of Education shall promulgate administrative regulations
16 in accordance with KRS Chapter 13A to establish:

17 1. Minimum standards and specifications for non-school bus passenger
18 vehicles used under this subsection, including a standard for minimum
19 insurance coverage;

20 2. Minimum route safety standards and pick-up and drop-off protocols for
21 transporting students to and from school along a regular bus
22 route~~[pupil transportation]~~ using non-school bus passenger vehicles that
23 prohibit non-school bus passenger vehicles from depositing a student at
24 a location that would require the student to cross a road or intersection
25 to reach the student's destination;~~[and]~~

26 3. Minimum qualifications~~[,]~~ and training~~[, and drug testing]~~ requirements
27 for an individual to be authorized to transport any student to and from

1 school along a regular bus route using a non-school bus passenger
 2 vehicle. Except as provided in subparagraph 4. of this paragraph and
 3 Section 2 of this Act, the minimum qualifications and training
 4 requirements shall not apply to an individual exclusively transporting
 5 a student to or from approved school activities in a non-school bus
 6 passenger vehicle. A local board of education may establish minimum
 7 qualifications and training requirements for individuals exclusively
 8 transporting a student to or from approved school activities in such
 9 vehicles; and

10 4. Minimum drug testing requirements for an individual to be authorized
 11 to transport any student using a non-school bus passenger vehicle that
 12 are. ~~The drug testing requirements shall require an individual to submit~~
 13 ~~to drug testing~~ consistent, to the greatest extent practicable, with the
 14 requirements of 49 C.F.R. pt. 40 ~~to be authorized to transport students~~
 15 ~~to and from school using a non-school bus passenger vehicle~~.

16 (e) The transportation of a student pursuant to an agreement between a school
 17 district and a parent to reimburse the parent for arranging transportation of
 18 his or her own child to and from school or approved school activities shall
 19 not be subject to any requirement imposed pursuant to this section.

20 (4) As part of its regular procedure for establishing and updating standards and
 21 specifications for school buses and non-school bus passenger vehicles, the
 22 Kentucky Department of Education shall consider allowing school buses to operate
 23 using clean transportation fuels, as defined in KRS 186.750. If the department
 24 determines that school buses or non-school bus passenger vehicles may operate
 25 using clean transportation fuels while maintaining the same or a higher degree of
 26 safety as fuels currently allowed, it shall update its standards and specifications to
 27 allow for such use.

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

2 (1) As used in this section:

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

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

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

10 3. Upheld by a Circuit Court in an appeal of the results of an
11 administrative hearing conducted in accordance with KRS Chapter 13B;

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

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

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

23 (e) "Vacancy" means any certified position opening created by the resignation,
24 dismissal, nonrenewal of contract, transfer, or death of a certified staff
25 member of a local school district, or a new position created in a local school
26 district for which certification is required. However, if an employer-employee
27 bargained contract contains procedures for filling certified position openings

1 created by the resignation, dismissal, nonrenewal of contract, transfer, or
2 death of a certified staff member, or creation of a new position for which
3 certification is required, a vacancy shall not exist, unless certified positions
4 remain open after compliance with those procedures.

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

7 (a) All appointments, promotions, and transfers of principals, supervisors,
8 teachers, and other public school employees shall be made only by the
9 superintendent of schools, who shall notify the board of the action taken. All
10 employees of the local district shall have the qualifications prescribed by law
11 and by the administrative regulations of the Kentucky Board of Education and
12 of the employing board. Supervisors, principals, teachers, and other
13 employees may be appointed by the superintendent for any school year at any
14 time after February 1 preceding the beginning of the school year. No
15 superintendent of schools shall appoint or transfer himself or herself to
16 another position within the school district;

17 (b) When a vacancy occurs in a local school district, the superintendent shall
18 submit the job posting to the statewide job posting system described in KRS
19 160.152 fifteen (15) days before the position shall be filled. The local school
20 district shall post position openings in the local board office for public
21 viewing;

22 (c) When a vacancy needs to be filled in less than fifteen (15) days' time to
23 prevent disruption of necessary instructional or support services of the school
24 district, the superintendent may seek a waiver from the chief state school
25 officer outside of the process established in KRS 156.161. If the waiver is
26 approved, the appointment shall not be made until the person recommended
27 for the position has been approved by the chief state school officer. The chief

1 state school officer shall respond to a district's request for waiver or for
2 approval of an appointment within two (2) working days; and

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

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

9 (a) No relative of a superintendent of schools shall be an employee of the school
10 district. However, this shall not apply to a relative who is a classified or
11 certified employee of the school district for at least thirty-six (36) months
12 prior to the superintendent assuming office and who is qualified for the
13 position the employee holds. A superintendent's spouse who has previously
14 been employed in a school system may be an employee of the school district.
15 A superintendent's spouse who is employed under this provision shall not hold
16 a position in which the spouse supervises certified or classified employees. A
17 superintendent's spouse may supervise teacher aides and student teachers.
18 However, the superintendent shall not promote a relative who continues
19 employment under an exception of this subsection;

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

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

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

26 1. A regular full-time or part-time employee of the district;

27 2. Accruing continuing contract status or any other right to continuous

1 employment;

2 3. Receiving fringe benefits other than those provided other substitutes; or

3 4. Receiving preference in employment or assignment over other
4 substitutes.

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

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

10 (a) Has been convicted of an offense that would classify a person as a violent
11 offender under KRS 439.3401;

12 (b) Has been convicted of a sex crime as defined by KRS 17.500 or a
13 misdemeanor offense under KRS Chapter 510;

14 (c) Is required to register as a sex offender under KRS 17.500 to 17.580; or

15 (d) Has an administrative finding of child abuse or neglect in records maintained
16 by the Cabinet for Health and Family Services.

17 (6) Requirements for background checks shall be as follows:

18 (a) A superintendent shall require the following individuals to submit to a
19 national and state criminal background check by the Department of Kentucky
20 State Police and the Federal Bureau of Investigation and have a clear CA/N
21 check, provided by the individual:

22 1. Each new certified or classified hire;

23 2. A nonfaculty coach or nonfaculty assistant as defined under KRS
24 161.185;

25 3. A student teacher;

26 4. A school-based decision making council parent member; and

27 5. Any adult who is permitted access to school grounds on a regularly

- 1 scheduled and continuing basis pursuant to a written agreement for the
2 purpose of providing services directly to a student or students as part of
3 a school-sponsored program or activity;
- 4 (b) 1. The requirements of paragraph (a) of this subsection shall not apply to:
- 5 a. Classified and certified individuals employed by the school district
6 prior to June 27, 2019;
- 7 b. Certified individuals who were employed in another certified
8 position in a Kentucky school district within six (6) months of the
9 date of hire and who had previously submitted to a national and
10 state criminal background check and who have a clear CA/N check
11 for the previous employment; or
- 12 c. Student teachers who have submitted to and provide a copy of a
13 national and state criminal background check by the Department
14 of Kentucky State Police and the Federal Bureau of Investigation
15 through an accredited teacher education institution in which the
16 student teacher is enrolled and who have a clear CA/N check.
- 17 2. The Education Professional Standards Board may promulgate
18 administrative regulations to impose additional qualifications to meet
19 the requirements of Pub. L. No. 92-544;
- 20 (c) A parent member may serve prior to the receipt of the criminal history
21 background check and CA/N letter required by paragraph (a) of this
22 subsection but shall be removed from the council on receipt by the school
23 district of a report documenting a record of abuse or neglect, or a sex crime or
24 criminal offense against a victim who is a minor as defined in KRS 17.500, or
25 as a violent offender as defined in KRS 17.165, and no further procedures
26 shall be required;
- 27 (d) A superintendent may require a volunteer or a visitor to submit to a national

1 and state criminal history background check by the Department of Kentucky
 2 State Police and the Federal Bureau of Investigation and have a clear CA/N
 3 check, provided by the individual; and

4 (e) The superintendent~~[of a school district operating under an alternative~~
 5 ~~transportation plan approved by the Kentucky Department of Education in~~
 6 ~~accordance with KRS 156.153(3)]~~ shall require the driver of any non-school
 7 bus passenger vehicle authorized to transport students to and from school
 8 **along a regular bus route**~~[pursuant to the alternative transportation plan]~~ who
 9 does not have a valid commercial driver's license issued in accordance with
 10 KRS Chapter 281A with an "S" endorsement to:

- 11 1. Submit to a national and state criminal background check by the
 12 Department of Kentucky State Police and the Federal Bureau of
 13 Investigation at least once every three (3) years and a criminal records
 14 check conducted in accordance with KRS 27A.090 in all other years;
- 15 2. Submit to drug testing consistent with the **administrative regulations**
 16 **promulgated in accordance with Section 1 of this Act**~~requirements of~~
 17 ~~49 C.F.R. pt. 40];~~
- 18 3. Provide a biannual driving history record check performed by the
 19 Transportation Cabinet;
- 20 4. Provide an annual clear CA/N check;
- 21 5. Immediately notify the superintendent of any conviction for a violation
 22 under KRS Chapter 189 for which penalty points are assessed; and
- 23 6. Immediately notify the superintendent of any citation or arrest for a
 24 violation of any provision of KRS Chapter 189A. The superintendent
 25 shall inform the Kentucky Department of Education of the notification.

26 **(f) The superintendent shall require the driver of any non-school bus**
 27 **passenger vehicle authorized to transport students to and from approved**

1 school activities who does not have a valid commercial driver's license with
 2 an "S" endorsement issued in accordance with KRS Chapter 281A to:

3 1. Submit to a state criminal records check from the Justice and Public
 4 Safety Cabinet or the Administrative Office of the Courts, or both, in
 5 accordance with KRS 17.160(1) prior to being authorized and
 6 annually thereafter;

7 2. Submit to drug testing consistent with the administrative regulations
 8 promulgated in accordance with Section 1 of this Act;

9 3. Immediately notify the superintendent of any conviction for a violation
 10 under KRS Chapter 189 for which penalty points are assessed; and

11 4. Immediately notify the superintendent of any citation or arrest for a
 12 violation of any provision of KRS Chapter 189A. The superintendent
 13 shall inform the Kentucky Department of Education of the
 14 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. There being a desperate need for individuals to transport students to
5 and from approved school activities, an emergency is declared to exist, and this Act takes
6 effect upon its passage and approval by the Governor or upon its otherwise becoming a
7 law.