

1       AN ACT relating to firearms possession by domestic abusers.

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

3           ➔Section 1. KRS 527.010 is amended to read as follows:

4       The following definitions apply in this chapter unless the context otherwise requires:

5       (1) "Booby trap device" has~~shall have~~ the same meaning as ~~set forth~~ in KRS  
6       237.030;[.]

7       (2) "Deface" means to remove, damage~~deface~~, cover, alter, or destroy the  
8       manufacturer's serial number or any other distinguishing number or identification  
9       mark;[.]

10      (3) "Destructive device" has~~shall have~~ the same meaning as ~~set forth~~ in KRS  
11      237.030;[.]

12      (4) "Domestic abuse offense" means a conviction under KRS 403.763 or 456.180, or  
13       any crime that has as an element the use, attempted use, or threatened use of:

14       (a) Physical force;

15       (b) A deadly weapon; or

16       (c) A dangerous instrument;

17       if the relationship between the perpetrator and the victim is that of family  
18       members or members of an unmarried couple as those terms are defined in KRS  
19       403.720, or members of a dating relationship as defined in KRS 456.010;

20      (5) "Domestic violence protective order" means an order issued:

21       (a) After a hearing of which the subject of the order received actual notice and  
22       had the opportunity to participate; and

23       (b) Under:

24           1. Section 4 of this Act that restrains the adverse party from committing  
25           acts of domestic violence and abuse, including a foreign protective  
26           order as defined in KRS 403.720, if the relationship between the  
27           subject of the order and the protected individual is that of family

1                   members or members of an unmarried couple as those terms are  
2                   defined in KRS 403.720; or

3                   2. Section 5 of this Act that restrains the adverse party from committing  
4                   acts of dating violence and abuse, including a foreign protective order  
5                   as defined in KRS 456.010, if the relationship between the subject of  
6                   the order and the protected individual is that of members of a dating  
7                   relationship as defined in KRS 456.010;

8                   (6) "Firearm" means any weapon which will expel a projectile by the action of an  
9                   explosive;[.]

10                   (7)[(5)} "Handgun" means any pistol or revolver originally designed to be fired by the  
11                   use of a single hand, or any other firearm originally designed to be fired by the use  
12                   of a single hand; and

13                   (8) "Physical force" means force used upon or directed toward the body of another  
14                   person.

15                   → SECTION 2. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO  
16                   READ AS FOLLOWS:

17                   (1) A person is guilty of possession of a firearm by a convicted domestic abuser when  
18                   the person:

19                   (a) Wantonly possesses, purchases, manufactures, or transports a firearm; and  
20                   (b) Has been convicted of a domestic abuse offense in any state or federal  
21                   court.

22                   (2) A person is guilty of possession of a firearm by the subject of a domestic violence  
23                   protective order when the person:

24                   (a) Wantonly possesses, purchases, manufactures, or transports a firearm; and  
25                   (b) Is currently subject to a domestic violence protective order.

26                   (3) Possession of a firearm by a convicted domestic abuser or the subject of a  
27                   domestic violence protective order is a Class C felony.

1        (4) Notwithstanding the exceptions contained in KRS 527.100(1)(a) to (g), this  
2        section shall apply to any youthful offender who is convicted of a domestic abuse  
3        offense.

4        ➔ SECTION 3. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO  
5        READ AS FOLLOWS:

6        (1) Upon every conviction for a domestic abuse offense and upon the issuance of  
7        every domestic violence protective order, the trial court or issuing court, as  
8        applicable, shall inform the offender or adverse party of the firearm prohibition  
9        in Section 2 of this Act and of the transfer requirements in this section.

10        (2) Within twenty-four (24) hours after being informed of the firearm prohibition, a  
11        person convicted of a domestic abuse offense or restrained by a domestic violence  
12        protective order shall transfer all firearms he or she owns or possesses to:

13        (a) The chief law enforcement officer of the city, county, urban-county  
14        government, charter county government, consolidated local government, or  
15        unified local government in which the person resides; or  
16        (b) The sheriff of the county in which the person resides.

17        (3) Any chief law enforcement officer or sheriff accepting the transfer of firearms  
18        under this section shall issue a proof of transfer to the transferring person. The  
19        Administrative Office of the Courts shall develop a proof of transfer form, which  
20        shall include, at a minimum:

21        (a) The name of the person transferring the firearm or firearms;  
22        (b) The name of the owner of each firearm;  
23        (c) The date of transfer; and  
24        (d) The serial number, make, and model of each transferred firearm.

25        (4) (a) Within three (3) business days after being informed of the firearm  
26        prohibition, a person convicted of a domestic abuse offense or restrained by  
27        a domestic violence protective order shall either:

- 1        1. File a copy of the proof of transfer form with the court that entered  
2        the conviction or entered the order, as applicable, and attest that all  
3        firearms owned or possessed by the person have been transferred in  
4        accordance with this section and that the person does not own or  
5        possess any other firearms; or
- 6        2. Attest to the court that entered the conviction or entered the order, as  
7        applicable, that the person does not currently own or possess any  
8        firearms and did not own or possess any firearms at the time of the  
9        prohibiting conviction or order.

10        (b) The court that entered the conviction or issued the order, as applicable,  
11        shall confirm whether the prohibited person timely complied with the terms  
12        of this subsection. Failure to comply shall constitute contempt of court in  
13        addition to any penalties under subsection (8) of this section.

14        (5) If upon motion of the attorney for the Commonwealth, the court finds probable  
15        cause to believe that a person convicted of a domestic abuse offense or restrained  
16        by a domestic violence protective order has failed to transfer any firearms in  
17        accordance with this section, the court may order a search for and the removal of  
18        all firearms at any location where the judge has probable cause to believe these  
19        firearms are located. The judge shall state with specificity the reasons for and the  
20        scope of the search and seizure authorized by the order. Proof of transfer as  
21        required under subsection (3) of this section shall be issued for any firearms  
22        seized under this subsection.

23        (6) A person convicted of a domestic abuse offense who transfers a firearm to a chief  
24        law enforcement officer or sheriff under this section may, within thirty (30) days  
25        after transferring the firearm, request to make a one (1) time transfer to a  
26        federally licensed firearms dealer. After the thirty (30) day period, if a person  
27        convicted of a domestic abuse offense has not made such a request, a chief law

1        enforcement officer or sheriff may dispose of any firearm transferred by the  
2        person in accordance with KRS 500.090.

3        (7) At the expiration of a domestic violence protective order, a chief law enforcement  
4        officer or sheriff shall, at the restrained person's request, return any firearms  
5        transferred pursuant to subsection (2) of this section. Prior to returning any  
6        firearms, the chief law enforcement officer or sheriff shall determine whether or  
7        not the restrained person is eligible to possess a firearm under state and federal  
8        law. If the restrained person is ineligible to possess a firearm under state or  
9        federal law, the law enforcement agency shall:

10        (a) Inform the person that a thirty (30) day window for transferring the firearm  
11        is available as provided in subsection (6) of this section; and  
12        (b) After thirty (30) days have passed, dispose of the firearm in accordance with  
13        KRS 500.090.

14        (8) A person convicted of a domestic abuse offense or restrained by a domestic  
15        violence protective order who does not comply with the terms of this section is  
16        guilty of a Class A misdemeanor.

17        ➔Section 4. KRS 403.740 is amended to read as follows:

18        (1) Following a hearing ordered under KRS 403.730, if a court finds by a  
19        preponderance of the evidence that domestic violence and abuse has occurred and  
20        may again occur, the court may issue a domestic violence order:

21        (a) Restraining the adverse party from:  
22            1. Committing further acts of domestic violence and abuse;  
23            2. Any unauthorized contact or communication with the petitioner or other  
24            person specified by the court;  
25            3. Approaching the petitioner or other person specified by the court within  
26            a distance specified in the order, not to exceed five hundred (500) feet;  
27            4. Going to or within a specified distance of a specifically described

3                   5. Disposing of or damaging any of the property of the parties;

4 (b) Authorizing, at the request of the petitioner:

7           2. The parties to remain in a common area, which may necessitate them  
8           being closer than five hundred (500) feet under limited circumstances  
9           with specific parameters set forth by the court.

10 Nothing in this paragraph shall be interpreted to place any restriction or  
11 restraint on the petitioner;

12 (c) Directing or prohibiting any other actions that the court believes will be of  
13 assistance in eliminating future acts of domestic violence and abuse, except  
14 that the court shall not order the petitioner to take any affirmative action;

15 (d) Directing that either or both of the parties receive counseling services  
16 available in the community in domestic violence and abuse cases; and

17 (e) Additionally, if applicable:

20                   2. Utilizing the criteria set forth in KRS 403.270, 403.275, and 403.280, grant temporary custody, subject to KRS 403.315;

21

22           3. Utilizing the criteria set forth in KRS 403.211, 403.212, 403.2122, and  
23           403.213, award temporary child support; and

4. Awarding possession of any shared domestic animal to the petitioner.

25 (2) In imposing a location restriction described in subsection (1)(a)4. of this section, the  
26 court shall:

27 (a) Afford the petitioner and respondent, if present, an opportunity to testify on

1           the issue of the locations and areas from which the respondent should or  
2           should not be excluded;

10 (3) When temporary child support is granted under this section, the court shall enter an  
11 order detailing how the child support is to be paid and collected. Child support  
12 ordered under this section may be enforced utilizing the same procedures as any  
13 other child support order.

14 (4) When a domestic violence order serves to prohibit the adverse party from  
15 possessing a firearm under Section 2 of this Act, the court shall inform the  
16 adverse party of the firearm possession prohibition and the firearm transfer  
17 requirements under Section 3 of this Act.

18    **(5)** A domestic violence order shall be effective for a period of time fixed by the court,  
19        not to exceed three (3) years, and may be reissued upon expiration for subsequent  
20        periods of up to three (3) years each. The fact that an order has not been violated  
21        since its issuance may be considered by a court in hearing a request for a reissuance  
22        of the order.

23 ➔Section 5. KRS 456.060 is amended to read as follows:

24 (1) Following a hearing ordered under KRS 456.040, if a court finds by a  
25 preponderance of the evidence that dating violence and abuse, sexual assault, or  
26 stalking has occurred and may again occur, the court may issue an interpersonal  
27 protective order:

- 1       (a) Restraining the adverse party from:
  - 2           1. Committing further acts of dating violence and abuse, stalking, or sexual
  - 3           assault;
  - 4           2. Any unauthorized contact or communication with the petitioner or other
  - 5           person specified by the court;
  - 6           3. Approaching the petitioner or other person specified by the court within
  - 7           a distance specified in the order, not to exceed five hundred (500) feet;
  - 8           4. Going to or within a specified distance of a specifically described
  - 9           residence, school, or place of employment or area where such a place is
  - 10           located; and
  - 11           5. Disposing of or damaging any of the property of the parties;
- 12       (b) Authorizing, at the request of the petitioner:
  - 13           1. Limited contact or communication between the parties that the court
  - 14           finds necessary; or
  - 15           2. The parties to remain in a common area, which may necessitate them
  - 16           being closer than five hundred (500) feet under limited circumstances
  - 17           with specific parameters set forth by the court.
- 18       Nothing in this paragraph shall be interpreted to place any restriction or
- 19       restraint on the petitioner;
- 20       (c) Directing or prohibiting any other actions that the court believes will be of
- 21       assistance in eliminating future acts of dating violence and abuse, stalking, or
- 22       sexual assault, except that the court shall not order the petitioner to take any
- 23       affirmative action;
- 24       (d) Directing that either or both of the parties receive counseling services
- 25       available in the community in dating violence and abuse cases; and
- 26       (e) Awarding possession of any shared domestic animal to the petitioner.

27       (2) In imposing a location restriction described in subsection (1)(a)4. of this section, the

1 court shall:

2 (a) Afford the petitioner and respondent, if present, an opportunity to testify on  
3 the issue of the locations and areas from which the respondent should or  
4 should not be excluded;

5 (b) Only impose a location restriction where there is a specific, demonstrable  
6 danger to the petitioner or other person protected by the order;

7 (c) Specifically describe in the order the locations or areas prohibited to the  
8 respondent; and

9 (d) Consider structuring a restriction so as to allow the respondent transit through  
10 an area if the respondent does not interrupt his or her travel to harass, harm, or  
11 attempt to harass or harm the petitioner.

12 (3) When an interpersonal protective order serves to prohibit the adverse party from  
13 possessing a firearm under Section 2 of this Act, the court shall inform the  
14 adverse party of the firearm possession prohibition and the firearm transfer  
15 requirements under Section 3 of this Act.

16    **(4)** An interpersonal protective order shall be effective for a period of time fixed by the  
17        court, not to exceed three (3) years, and may be reissued upon expiration for  
18        subsequent periods of up to three (3) years each. The fact that an order has not been  
19        violated since its issuance may be considered by a court in hearing a request for a  
20        reissuance of the order.