

1       AN ACT relating to leave from employment.

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

3           ➔Section 1. KRS 337.415 is amended to read as follows:

4       (1) As used in this section:

5           (a) "Crime" means an offense designated by law as a felony or misdemeanor;

6           (b) "Immediate family" means the parent, stepparent, child, stepchild, sibling,  
7           spouse, grandparent, or legal guardian of the victim or any person involved  
8           in an intimate relationship and residing in the same household with the  
9           victim; and

10          (c) "Victim":

11           1. Means any person who suffers direct or threatened physical,  
12           emotional, psychological, or financial harm as a result of the  
13           commission or the attempted commission of a crime; and

14           2. Includes the immediate family of any victim who is a minor or legally  
15           disabled as defined in KRS 387.510(8), or the immediate family of a  
16           homicide victim.

17          (2) An~~N~~ employer shall not discharge an employee for taking time off, as required  
18          by law, to appear in any duly constituted local, state~~s~~ or federal court or duly  
19          constituted administrative tribunal or hearing~~[ if such employee, prior to taking  
20          such time off, gives notice to the employer that he is required to serve by presenting  
21          a copy of the court or administrative certificate to said employer].~~

22          (3) An employer shall not discharge, discriminate, or retaliate against an employee  
23           who is a victim of a crime and takes leave from work to attend court or other legal  
24           or investigative proceedings associated with the prosecution of the crime.

25          (4) An employee shall give the employer reasonable notice of intent to take leave by  
26           providing the employer with a copy of the notice of each scheduled hearing,  
27           conference, or meeting that is provided to the employee by the court or agency

1        *responsible for providing notice to the employee unless such prior notice is not*  
2        *practicable, in which case the employee shall provide documentation to the*  
3        *employer within two (2) business days after returning to work.*

4        *(5) If notice is provided in accordance with subsection (4) of this section, it shall be a*  
5        *violation of this section for an employer to deny leave to the employee.*

6        *(6) An employee who takes leave from work pursuant to this section may elect to use,*  
7        *or an employer may require the employee to use, the employee's accrued vacation*  
8        *time, personal leave time, compensatory time, or sick leave time. An employer*  
9        *shall have the discretion to determine whether to pay an employee for leave taken*  
10      *from work pursuant to this section if the employee has no accrued paid leave*  
11      *time.*

12      *(7) An employer shall maintain the confidentiality of any verbal communication,*  
13      *written documentation, or record submitted by an employee related to the*  
14      *employee's request for leave pursuant to this section.*

15      *(8) Any employer who willfully or intentionally violates subsection (3) or (7) of this*  
16      *section shall, in addition to being assessed a civil penalty, give rise to a private*  
17      *right of action for any reputational or actual damages suffered by the employee.*

18      *(9) The penalty for [such]unlawful discharge *in violation of this section* may*  
19      *include[ ], but is not limited to[ ], reemployment, assessment of court costs,*  
20      *appropriate *attorney's*[attorney] fees, and back pay as ordered by a court of*  
21      *competent jurisdiction.*

22      ➔Section 2. KRS 337.990 is amended to read as follows:

23      The following civil penalties shall be imposed by the Education and Labor Cabinet, in  
24      accordance with the provisions in KRS 336.985, for violations of the provisions of this  
25      chapter:

26      (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be  
27      assessed a civil penalty of not less than one hundred dollars (\$100) nor more than

1       one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the  
2       wages when due him or her under KRS 337.020 shall constitute a separate offense.

3       (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not  
4       less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

5       (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not  
6       less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)  
7       for each offense and shall make full payment to the employee by reason of the  
8       violation. Each failure to pay an employee the wages as required by KRS 337.055  
9       shall constitute a separate offense.

10      (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not  
11       less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)  
12       and shall also be liable to the affected employee for the amount withheld, plus  
13       interest at the rate of ten percent (10%) per annum.

14      (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil  
15       penalty of not less than one hundred dollars (\$100) nor more than one thousand  
16       dollars (\$1,000) for each offense and shall make full payment to the employee by  
17       reason of the violation.

18      (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty  
19       of not less than one hundred dollars (\$100) nor more than one thousand dollars  
20       (\$1,000) for each offense and each day that the failure continues shall be deemed a  
21       separate offense.

22      (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS  
23       337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the  
24       commissioner or the commissioner's authorized representative in the performance  
25       of his or her duties under KRS 337.295, or fails to keep and preserve any records as  
26       required under KRS 337.320 and 337.325, or falsifies any record, or refuses to  
27       make any record or transcription thereof accessible to the commissioner or the

1       commissioner's authorized representative shall be assessed a civil penalty of not  
2       less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).  
3       A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for  
4       any subsequent violation of KRS 337.285(4) to (9) and each day the employer  
5       violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty.

6       (8) Any employer who pays or agrees to pay wages at a rate less than the rate  
7       applicable under KRS 337.275 and 337.285, or any wage order issued pursuant  
8       thereto shall be assessed a civil penalty of not less than one hundred dollars (\$100)  
9       nor more than one thousand dollars (\$1,000).

10      (9) Any employer who discharges or in any other manner discriminates against any  
11       employee because the employee has made any complaint to his or her employer, to  
12       the commissioner, or to the commissioner's authorized representative that he or she  
13       has not been paid wages in accordance with KRS 337.275 and 337.285 or  
14       regulations issued thereunder, or because the employee has caused to be instituted  
15       or is about to cause to be instituted any proceeding under or related to KRS  
16       337.385, or because the employee has testified or is about to testify in any such  
17       proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345,  
18       and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than  
19       one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

20      (10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not  
21       less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

22      (11) A person shall be assessed a civil penalty of not less than one hundred dollars  
23       (\$100) nor more than one thousand dollars (\$1,000) when that person discharges or  
24       in any other manner discriminates against an employee because the employee has:  
25           (a) Made any complaint to his or her employer, the commissioner, or any other  
26              person; or  
27           (b) Instituted, or caused to be instituted, any proceeding under or related to KRS

1                   337.420 to 337.433; or

2                   (c) Testified, or is about to testify, in any such proceedings.

3                   **(12) Any employer who violates Section 1 of this Act shall be assessed a civil penalty**  
4                   **of not less than one hundred dollars (\$100) nor more than one thousand dollars**  
5                   **(\$1,000) for each offense. Each day the employer fails to grant leave to an**  
6                   **employee as required under subsection (5) of Section 1 of this Act shall constitute**  
7                   **a separate offense.**