

1 AN ACT relating to hate crimes.

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

3 ➔SECTION 1. KRS 532.031 IS REPEALED AND REENACTED TO READ
4 AS FOLLOWS:

5 (1) As used in this section, "gender identity or expression" means having or being
6 perceived as having a gender-related self-identity or expression, whether or not
7 associated with an individual's assigned sex at birth.

8 (2) A person is guilty of a hate crime if the person maliciously and intentionally
9 commits an offense under:

10 (a) KRS Chapter 507;

11 (b) KRS Chapter 508, except for a violation of KRS 508.025, 508.030, 508.032,
12 508.060, 508.070, 508.152, or 508.160;

13 (c) KRS Chapter 509;

14 (d) KRS 512.020 or 512.030; or

15 (e) KRS 513.020, 513.030, or 513.040;

16 against an individual based in whole or in substantial part on an actual or
17 perceived characteristic of another individual or group of individuals as set forth
18 in subsection (3) of this section, regardless of the existence of any other
19 motivating factors.

20 (3) The actual or perceived characteristics of another individual referenced under
21 subsection (2) of this section include any or all of the following:

22 (a) Race or color;

23 (b) Religion;

24 (c) Sex;

25 (d) Sexual orientation;

26 (e) Gender identity or expression;

27 (f) Physical or mental disability;

1 (g) Age;

2 (h) Ethnicity;

3 (i) National origin; and

4 (j) Association or affiliation with an individual or group of individuals based
5 on a characteristic described in paragraphs (a) to (i) of this subsection.

6 (4) Except as provided in subsection (5) of this section, a person who violates
7 subsection (2) of this section is guilty of a Class D felony punishable by
8 imprisonment for not more than three (3) years, a fine of not more than five
9 thousand dollars (\$5,000), or both.

10 (5) If any of the following conditions apply, a person who violates subsection (2) of
11 this section is guilty of a Class D felony punishable by imprisonment for not more
12 than five (5) years, a fine of not more than ten thousand dollars (\$10,000), or
13 both:

14 (a) The violation results in bodily injury;

15 (b) The person has one (1) or more prior convictions for violating subsection
16 (2) of this section;

17 (c) A victim of the violation of subsection (2) of this section is less than
18 eighteen (18) years of age, and the offender is at least nineteen (19) years of
19 age;

20 (d) The person commits the violation of subsection (2) of this section in concert
21 with one (1) or more individuals; or

22 (e) The person is in possession of a firearm during the commission of the
23 violation of subsection (2) of this section.

24 (6) In lieu of or in addition to the penalties described in subsection (4) of this section,
25 the court may, if the victim consents, impose an alternative sentence, reduce any
26 penalty imposed under subsection (4) of this section by not more than twenty
27 percent (20%), or both. In determining the suitability of an alternative sentence

1 or reduced penalty, the court shall consider the following:

2 (a) The criminal history of the defendant;

3 (b) The impact of the offense on the victim and the community;

4 (c) The availability of the alternative sentence; and

5 (d) The nature of the violation.

6 If the entity chose for community service is amenable, an alternative sentence
7 may include an order requiring the defendant to complete a period of community
8 service intended to enhance the defendant's understanding of the impact of the
9 offense upon the victim and the community.

10 ➔ Section 2. KRS 15.334 is amended to read as follows:

11 (1) The Kentucky Law Enforcement Council shall approve mandatory training subjects
12 to be taught to all students attending a law enforcement basic training course that
13 include but are not limited to:

14 (a) Abuse, neglect, and exploitation of the elderly and other crimes against the
15 elderly, including the use of multidisciplinary teams in the investigation and
16 prosecution of crimes against the elderly;

17 (b) The dynamics of domestic violence, pediatric abusive head trauma, as defined
18 in KRS 620.020, child physical and sexual abuse, and rape; child
19 development; the effects of abuse and crime on adult and child victims,
20 including the impact of abuse and violence on child development; legal
21 remedies for protection; lethality and risk issues; profiles of offenders and
22 offender treatment; model protocols for addressing domestic violence, rape,
23 pediatric abusive head trauma, as defined in KRS 620.020, and child abuse;
24 available community resources and victim services; and reporting
25 requirements. This training shall be developed in consultation with legal,
26 victim services, victim advocacy, and mental health professionals with
27 expertise in domestic violence, child abuse, and rape. Training in recognizing

1 pediatric abusive head trauma may be designed in collaboration with
2 organizations and agencies that specialize in the prevention and recognition of
3 pediatric abusive head trauma approved by the secretary of the Cabinet for
4 Health and Family Services;

5 (c) Human immunodeficiency virus infection and acquired immunodeficiency
6 virus syndrome;

7 (d) Identification and investigation of, responding to, and reporting ~~hate~~^{bias-}
8 ~~related~~] crime, victimization, or intimidation that is a result of or reasonably
9 related to race, color, ethnicity, religion, sex, sexual orientation, gender
10 identity or expression as defined in Section 1 of this Act, physical or mental
11 disability, age, or national origin;

12 (e) The characteristics and dynamics of human trafficking, state and federal laws
13 relating to human trafficking, the investigation of cases involving human
14 trafficking, including but not limited to screening for human trafficking, and
15 resources for assistance to the victims of human trafficking;

16 (f) ~~Beginning January 1, 2017, the council shall require that a law enforcement~~
17 ~~basic training course include~~] At least eight (8) hours of training relevant to
18 sexual assault; and

19 (g) Education on female genital mutilation as defined in KRS 508.125, including
20 the risk factors associated with female genital mutilation, the criminal
21 penalties for committing female genital mutilation, and the psychological and
22 health effects on a victim of female genital mutilation.

23 (2) (a) The council shall develop and approve mandatory in-service training courses
24 to be presented to all certified peace officers. The council may promulgate
25 administrative regulations in accordance with KRS Chapter 13A setting forth
26 the deadlines by which all certified peace officers shall attend the mandatory
27 in-service training courses.

(b) ~~Beginning January 1, 2017,]The council shall establish a forty (40) hour sexual assault investigation training course and[. After January 1, 2019,}~~ agencies shall maintain officers on staff who have completed the forty (40) hour sexual assault investigation training course in accordance with the following:

1. Agencies with more than ten (10) but fewer than twenty-one (21) full-time officers shall maintain one (1) officer who has completed the forty (40) hour sexual assault investigation training course;
2. Agencies with twenty-one (21) or more but fewer than fifty-one (51) full-time officers shall maintain at least two (2) officers who have completed the forty (40) hour sexual assault investigation training course; and
3. Agencies with fifty-one (51) or more full-time officers shall maintain at least four (4) officers who have completed the sexual assault investigation course.

(c) An agency shall not make an officer directly responsible for the investigation or processing of sexual assault offenses unless that officer has completed the forty (40) hour sexual assault investigation training course.

(d) The council may, upon application by any agency, grant an exemption from the training requirements set forth in paragraph (b) of this subsection if that agency, by limitations arising from its scope of authority, does not conduct sexual assault investigations.

(e) Any agency failing to comply with paragraph (b) or (c) of this subsection shall, from the date the noncompliance commences, have one (1) year to reestablish the minimum number of trained officers required.

(f) *Beginning January 1, 2027, the council shall establish a hate crime identification, investigation, response, and reporting training course. After*

1 January 1, 2029, agencies shall require all officers on staff to complete
2 training on hate crime identification, investigation, response, and reporting
3 once every two (2) years.

4 (g) An agency shall not make an officer responsible for hate crime
5 identification, investigation, response, or reporting unless that officer has
6 completed the training course.

7 (h) The council may, upon application by any agency, grant an exception from
8 the training requirements set forth in paragraph (f) of this subsection if that
9 agency, by limitations arising from its scope of authority, does not conduct
10 hate crime investigations.

11 (i) Any agency failing to comply with paragraph (f) or (g) of this subsection
12 shall, from the date the noncompliance commences, have one (1) year to
13 reestablish the minimum number of trained officers required.

14 (3) The Justice and Public Safety Cabinet shall provide training on the subjects of
15 domestic violence, hate crimes, and abuse and may do so utilizing currently
16 available technology. All certified peace officers shall be required to complete this
17 training at least once every two (2) years.

18 (4) The council shall promulgate administrative regulations in accordance with KRS
19 Chapter 13A to establish mandatory basic training and in-service training courses.

20 ➔Section 3. KRS 17.1523 is amended to read as follows:

21 (1) The uniform offense report shall contain provisions for obtaining information as to
22 whether ~~for not~~ specific crimes appear from their facts and circumstances to be
23 caused as a result of or reasonably related to race, color, ethnicity, religion, sex,
24 sexual orientation, gender identity or expression as defined in Section 1 of this
25 Act, physical or mental disability, age, or national origin.

26 (2) All law enforcement officers, when completing a uniform offense report, shall note
27 on the report~~[thereon]~~ whether ~~for not~~ the offense appears to be caused as a result

1 of or reasonably related to race, color, ethnicity, religion, sex, sexual orientation,
2 gender identity or expression as defined in Section 1 of this Act, physical or
3 mental disability, age, or national origin or attempts to victimize or intimidate
4 another due to any of the foregoing causes.

5 (3) The Justice and Public Safety Cabinet shall, annually, as a part of the crime reports
6 report on crimes which appear to have been caused by the factors cited in
7 subsections (1) and (2) of this section.

8 ➔ SECTION 4. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
9 READ AS FOLLOWS:

10 Regardless of the existence or outcome of any criminal prosecution, a person who
11 suffers bodily injury or property damage as a result of a violation of Section 1 of this
12 Act may bring a civil cause of action against the perpetrator and may recover:

13 (1) Injunctive relief;

14 (2) Actual damages, including damages for emotional distress;

15 (3) Damages in the amount of three (3) times the actual damages described in this
16 subsection;

17 (4) Punitive damages;

18 (5) Reasonable attorney's fees and costs; and

19 (6) Any other appropriate relief.

20 ➔ Section 5. KRS 15.440 is amended to read as follows:

21 (1) Each unit of government that meets the following requirements shall be eligible to
22 share in the distribution of funds from the Law Enforcement Foundation Program
23 fund:

24 (a) Employs one (1) or more police officers;

25 (b) Pays every police officer at least the minimum federal wage;

26 (c) Requires all police officers to have, at a minimum, a high school degree, or its
27 equivalent as determined by the council, except that each police officer

1 employed prior to the date on which the officer's police department was
2 included as a participant under KRS 15.410 to 15.510 shall be deemed to have
3 met the requirements of this subsection;

4 (d) 1. Requires all police officers to successfully complete a basic training
5 course of nine hundred twenty-eight (928) hours' duration within one (1)
6 year of the date of employment at a school certified or recognized by the
7 council, which may provide a different number of hours of instruction as
8 established in this paragraph, except that each police officer employed
9 prior to the date on which the officer's police department was included
10 as a participant under KRS 15.410 to 15.510 shall be deemed to have
11 met the requirements of this subsection.

12 2. As the exclusive method by which the number of hours required for
13 basic training courses shall be modified from that which is specifically
14 established by this paragraph, the council may, by the promulgation of
15 administrative regulations in accordance with the provisions of KRS
16 Chapter 13A, explicitly set the exact number of hours for basic training
17 at a number different from nine hundred twenty-eight (928) hours based
18 upon a training curriculum approved by the Kentucky Law Enforcement
19 Council as determined by a validated job task analysis.

20 3. If the council sets an exact number of hours different from nine hundred
21 twenty-eight (928) in an administrative regulation as provided by this
22 paragraph, it shall not further change the number of hours required for
23 basic training without promulgating administrative regulations in
24 accordance with the provisions of KRS Chapter 13A.

25 4. Nothing in this paragraph shall be interpreted to prevent the council,
26 pursuant to its authority under KRS 15.330, from approving training
27 schools with a curriculum requiring attendance of a number of hours

1 that exceeds nine hundred twenty-eight (928) hours or the number of
2 hours established in an administrative regulation as provided by
3 subparagraphs 2. and 3. of this paragraph. However, the training
4 programs and schools for the basic training of law enforcement
5 personnel conducted by the department pursuant to KRS 15A.070 shall
6 not contain a curriculum that requires attendance of a number of hours
7 for basic training that is different from nine hundred twenty-eight (928)
8 hours or the number of hours established in an administrative regulation
9 promulgated by the council pursuant to the provisions of KRS Chapter
10 13A as provided by subparagraphs 2. and 3. of this paragraph.

11 5. KRS 15.400 and 15.404(1) and subparagraphs 1. to 4. of this paragraph
12 to the contrary notwithstanding, the council may, through the
13 promulgation of administrative regulations in accordance with KRS
14 Chapter 13A, approve basic training credit for:

15 a. Years of service credit as a law enforcement officer with previous
16 service in another state; and
17 b. Basic training completed in another state.

18 6. KRS 15.400 and 15.404(1) and subparagraphs 1. to 4. of this paragraph
19 to the contrary notwithstanding, the council may, through the
20 promulgation of administrative regulations in accordance with KRS
21 Chapter 13A, approve basic training credit for:

22 a. Completion of eight hundred forty-eight (848) hours of training at
23 a school established pursuant to KRS 15A.070;

27 C. Completion of an average of forty (40) hours of Kentucky Law

Enforcement Council approved in-service training annually from January 1, 1997, through January 1, 2020;

d. _____}Three (3) years of active, full-time service as a:

- i. City, county, urban-county, charter county, consolidated local, or unified local government police officer;
- ii. Sheriff's deputy, excluding special deputies appointed under KRS 70.045;
- iii. Department of Kentucky State Police officer; or
- iv. Kentucky Department of Fish and Wildlife Resources game warden exercising peace officer powers under KRS 150.090;

and

d. [e.] Completion of the:

- i. Twenty-four (24) hour legal update Penal Code course;
- ii. Sixteen (16) hour legal update constitutional procedure course; and
- iii. Forty (40) hour basic officer skills course within one (1) year prior to applying for certification;

(e) Requires all police officers to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of the officer's police department, of forty (40) hours' duration, at a school certified or recognized by the council which may include a four (4) hour course which meets the requirements of paragraph (j) of this subsection. This in-service training requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001;

(f) Complies with all provisions of law applicable to police officers or police

1 departments, including transmission of data to the centralized criminal history
2 record information system as required by KRS 17.150 and transmission of
3 reports as required by KRS 15.391;

4 (g) Complies with all rules and regulations, appropriate to the size and location of
5 the police department issued by the cabinet to facilitate the administration of
6 the fund and further the purposes of KRS 15.410 to 15.510;

7 (h) Possesses a written policy and procedures manual related to domestic violence
8 for law enforcement agencies that has been approved by the cabinet. The
9 policy shall comply with the provisions of KRS 403.715 to 403.785. The
10 policy shall include a purpose statement; definitions; supervisory
11 responsibilities; procedures for twenty-four (24) hour access to protective
12 orders; procedures for enforcement of court orders or relief when protective
13 orders are violated; procedures for timely and contemporaneous reporting of
14 adult abuse and domestic violence to the Cabinet for Health and Family
15 Services, Department for Community Based Services; victim rights,
16 assistance, and service responsibilities; and duties related to timely
17 completion of records;

18 (i) Possesses ~~by January 1, 2023,~~ a written policy and procedures manual
19 related to sexual assault examinations that meets the standards provided by,
20 and has been approved by, the cabinet, and which includes:

21 1. A requirement that evidence collected as a result of an examination
22 performed under KRS 216B.400 be taken into custody within five (5)
23 days of notice from the collecting facility that the evidence is available
24 for retrieval;

25 2. A requirement that evidence received from a collecting facility relating
26 to an incident which occurred outside the jurisdiction of the police
27 department be transmitted to a police department with jurisdiction

1 within ten (10) days of its receipt by the police department;

2 3. A requirement that all evidence retrieved from a collecting facility under

3 this paragraph be transmitted to the Department of Kentucky State

4 Police forensic laboratory within thirty (30) days of its receipt by the

5 police department;

6 4. A requirement that a suspect standard, if available, be transmitted to the

7 Department of Kentucky State Police forensic laboratory with the

8 evidence received from a collecting facility;

9 5. A process for notifying the victim from whom the evidence was

10 collected of the progress of the testing, whether the testing resulted in a

11 match to other DNA samples, and if the evidence is to be destroyed. The

12 policy may include provisions for delaying notice until a suspect is

13 apprehended or the office of the Commonwealth's attorney consents to

14 the notification, but shall not automatically require the disclosure of the

15 identity of any person to whom the evidence matched; and

16 6. A requirement that DNA samples collected as a result of an examination

17 performed under KRS 216B.400 that are voluntarily submitted solely for

18 elimination purposes shall not be checked against any DNA index,

19 retained, or included in any DNA index; ~~and~~

20 (j) Requires all police officers to successfully complete ~~by December 31, 2022,~~

21 ~~and~~ every two (2) years ~~thereafter,~~ a training course certified by the council

22 of not less than four (4) hours in emergency vehicle operation; and

23 (k) **Possesses a written policy and procedures manual related to hate crime**

24 **identification, investigation, response, and reporting for law enforcement**

25 **agencies that has been approved by the cabinet. The policy shall include a**

26 **purpose statement; definitions; supervisory responsibilities; procedures for**

27 **timely reporting of hate crimes to the Federal Bureau of Investigation;**

1 victim rights, assistance, and service responsibilities; and duties related to
2 timely completion of records.

3 (2) A unit of government which meets the criteria of this section shall be eligible to
4 continue sharing in the distribution of funds from the Law Enforcement Foundation
5 Program fund only if the police department of the unit of government remains in
6 compliance with the requirements of this section.

7 (3) Deputies employed by a sheriff's office shall be eligible to participate in the
8 distribution of funds from the Law Enforcement Foundation Program fund
9 regardless of participation by the sheriff.

10 (4) Failure to meet a deadline established in a policy adopted pursuant to subsection
11 (1)(i) of this section for the retrieval or submission of evidence shall not be a basis
12 for a dismissal of a criminal action or a bar to the admissibility of the evidence in a
13 criminal action.

14 ➔ Section 6. The following KRS section is repealed:

15 49.320 Victim of hate crime deemed victim of criminally injurious conduct.