

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**
15 **incompetent, or the immediate family of a homicide victim.**

16 **(2) An**~~No~~ **employer shall not** discharge an employee for taking time off, as required
17 by law, to appear in any duly constituted local, state, or federal court or duly
18 constituted administrative tribunal or hearing~~[if such employee, prior to taking~~
19 such time off, gives notice to the employer that he is required to serve by presenting
20 a copy of the court or administrative certificate to said employer].

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

25 **(4) Before an employee may take leave from work pursuant to this section, the**
26 **employee shall give the employer reasonable notice of intent to take leave by**
27 **providing the employer with a copy of the notice of each scheduled hearing,**

1 conference, or meeting that is provided to the employee by the court or agency
2 responsible for providing notice to the employee unless prior notice by the
3 employee is not practicable, in which case the employee shall provide
4 documentation to the employer within two (2) business days after returning to
5 work.

6 (5) If an employee acts in accordance with subsection (4) of this section, it shall be a
7 violation of this section for an employer to deny leave to the employee.

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

14 (7) An employer shall maintain the confidentiality of any verbal communication,
15 written document, or record submitted by an employee relative to the employee's
16 request for leave pursuant to this section.

17 (8) Any employer who willfully and intentionally violates subsection (3) or (7) of this
18 section may, in addition to being assessed a civil penalty, be liable to a civil cause
19 of action in Circuit Court to enjoin further violations and to recover the actual
20 damages sustained, together with the costs of the lawsuit, including a reasonable
21 fee for the individual's attorney of record.

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

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

27 The following civil penalties shall be imposed by the Education and Labor Cabinet, in

1 accordance with the provisions in KRS 336.985, for violations of the provisions of this
2 chapter:

3 (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be
4 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than
5 one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the
6 wages when due him or her under KRS 337.020 shall constitute a separate offense.

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

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

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

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

22 (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty
23 of not less than one hundred dollars (\$100) nor more than one thousand dollars
24 (\$1,000) for each offense and each day that the failure continues shall be deemed a
25 separate offense.

26 (7) Any employer who violates any provision of KRS 337.275 to 337.325, ~~KRS~~
27 ~~337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the~~

1 commissioner or the commissioner's authorized representative in the performance
2 of his or her duties under KRS 337.295, or fails to keep and preserve any records as
3 required under KRS 337.320 and 337.325, or falsifies any record, or refuses to
4 make any record or transcription thereof accessible to the commissioner or the
5 commissioner's authorized representative shall be assessed a civil penalty of not
6 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
7 A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for
8 any subsequent violation of KRS 337.285(4) to (9) and each day the employer
9 violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty.

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

14 (9) Any employer who discharges or in any other manner discriminates against any
15 employee because the employee has made any complaint to his or her employer, to
16 the commissioner, or to the commissioner's authorized representative that he or she
17 has not been paid wages in accordance with KRS 337.275 and 337.285 or
18 regulations issued thereunder, or because the employee has caused to be instituted
19 or is about to cause to be instituted any proceeding under or related to KRS
20 337.385, or because the employee has testified or is about to testify in any such
21 proceeding, shall be deemed in violation of KRS 337.275 to 337.325, ~~KRS~~
22 ~~337.345~~, and ~~KRS~~ 337.385 to 337.405 and shall be assessed a civil penalty of not
23 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

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

26 (11) A person shall be assessed a civil penalty of not less than one hundred dollars
27 (\$100) nor more than one thousand dollars (\$1,000) when that person discharges or

1 in any other manner discriminates against an employee because the employee has:

2 (a) Made any complaint to his or her employer, the commissioner, or any other

3 person; or

4 (b) Instituted, or caused to be instituted, any proceeding under or related to KRS

5 337.420 to 337.433; or

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

7 (12) Any employer who violates Section 1 of this Act shall be assessed a civil penalty

8 of not less than one hundred dollars (\$100) nor more than one thousand dollars

9 (\$1,000) for each offense. Each day the employer fails to grant leave to an

10 employee as required under subsection (5) of Section 1 of this Act shall constitute

11 a separate offense.