

1 AN ACT relating to school violence.

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

3 ➔Section 1. KRS 456.010 is amended to read as follows:

4 As used in this chapter:

- 5 (1) "Dating relationship" means a relationship between individuals who have or have
6 had a relationship of a romantic or intimate nature. It does not include a casual
7 acquaintanceship or ordinary fraternization in a business or social context. The
8 following factors may be considered in addition to any other relevant factors in
9 determining whether the relationship is or was of a romantic or intimate nature:
- 10 (a) Declarations of romantic interest;
 - 11 (b) The relationship was characterized by the expectation of affection;
 - 12 (c) Attendance at social outings together as a couple;
 - 13 (d) The frequency and type of interaction between the persons, including whether
14 the persons have been involved together over time and on a continuous basis
15 during the course of the relationship;
 - 16 (e) The length and recency of the relationship; and
 - 17 (f) Other indications of a substantial connection that would lead a reasonable
18 person to understand that a dating relationship existed;
- 19 (2) "Dating violence and abuse" means:
- 20 (a) Physical injury, serious physical injury, stalking, sexual assault, strangulation,
21 or the infliction of fear of imminent physical injury, serious physical injury,
22 sexual abuse, strangulation, or assault occurring between persons who are or
23 have been in a dating relationship; or
 - 24 (b) Any conduct prohibited by KRS 525.125, 525.130, 525.135, or 525.137, or
25 the infliction of fear of such imminent conduct, taken against a domestic
26 animal when used as a method of coercion, control, punishment, intimidation,
27 or revenge directed against a person with whom the perpetrator is or has been

1 in a dating relationship, when that person has a close bond of affection to the
2 domestic animal;

3 (3) "Domestic animal" means a dog, cat, or other animal that is domesticated and kept
4 as a household pet, but does not include animals normally raised for agricultural or
5 commercial purposes;

6 (4) "Foreign protective order" means any judgment, decree, or order of protection
7 which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 which was
8 not issued on the basis of domestic violence and abuse;

9 (5) "Global positioning monitoring system" means a system that electronically
10 determines a person's location through a device worn by the person which does not
11 invade his or her bodily integrity and which transmits the person's latitude and
12 longitude data to a monitoring entity;

13 (6) "Order of protection" means any interpersonal protective order, including those
14 issued on a temporary basis, and includes a foreign protective order;

15 (7) **"School violence" means serious physical injury or the infliction of fear of**
16 **imminent serious physical injury occurring:**

17 **(a) On or in any property that is owned, operated, leased, or contracted for use**
18 **by a local board of education; and**

19 **(b) Between persons who are students;**

20 **(8)** "Sexual assault" refers to conduct prohibited as any degree of rape, sodomy, or
21 sexual abuse under KRS Chapter 510 or a criminal attempt, conspiracy, facilitation,
22 or solicitation to commit any degree of rape, sodomy, or sexual abuse, or incest
23 under KRS 530.020;

24 **(9)**~~(8)~~ "Stalking" refers to conduct prohibited as stalking under KRS 508.140 or
25 508.150, or a criminal attempt, conspiracy, facilitation, or solicitation to commit the
26 crime of stalking;

27 **(10)**~~(9)~~ "Strangulation" refers to conduct prohibited by KRS 508.170 and 508.175, or

1 a criminal attempt, conspiracy, facilitation, or solicitation to commit the crime of
2 strangulation; and

3 (11)~~(10)~~ "Substantial violation" means criminal conduct which involves actual or
4 threatened harm to the person, family, or property, including a domestic animal, of
5 an individual protected by an order of protection.

6 ➔Section 2. KRS 456.030 is amended to read as follows:

- 7 (1) A petition for an interpersonal protective order may be filed by:
- 8 (a) A victim of dating violence and abuse;
 - 9 (b) A victim of stalking;
 - 10 (c) A victim of sexual assault;~~or~~
 - 11 (d) *A victim of school violence; or*
 - 12 (e) An adult on behalf of a victim who is a minor otherwise qualifying for relief
13 under this subsection.
- 14 (2) The petition may be filed in the victim's county of residence or a county where the
15 victim has fled to escape dating violence and abuse, stalking, ~~or~~sexual assault, or
16 *school violence.*
- 17 (3) The petition shall be verified and contain:
- 18 (a) The name, age, address, occupation, residence, and school or postsecondary
19 institution of the petitioner;
 - 20 (b) The name, age, address, occupation, residence, and school or postsecondary
21 institution of the person or persons who have engaged in the alleged act or
22 acts complained of in the petition;
 - 23 (c) The facts and circumstances which constitute the basis for the petition; and
 - 24 (d) The names, ages, and addresses of the petitioner's minor children, if
25 applicable.
- 26 (4) The petition shall be filed on forms prescribed by the Administrative Office of the
27 Courts and provided to the person seeking relief by the circuit clerk or by another

1 individual authorized by the court to provide and verify petitions in emergency
2 situations, such as law enforcement officers, Commonwealth's or county attorneys,
3 and regional rape crisis centers or domestic violence shelters.

4 (5) All petitions requested, completed, and signed by persons seeking protection under
5 this chapter shall be accepted and filed with the court.

6 (6) (a) Jurisdiction over petitions filed under this chapter shall be concurrent between
7 the District Court and Circuit Court.

8 (b) The Court of Justice shall provide a protocol for twenty-four (24) hour access
9 to interpersonal protective orders in each county with any protocol, whether
10 statewide or local, being subject to Supreme Court review and approval of the
11 initial protocol and any subsequent amendments. This protocol may allow for
12 petitions to be filed in or transferred to a court other than those specified in
13 paragraph (a) of this subsection.

14 (c) The Court of Justice may authorize by rule that petitions in a specific county
15 be filed in accordance with a supplemental jurisdictional protocol adopted for
16 that county. This protocol may provide for petitions to be filed in or
17 transferred to a court other than those specified in paragraph (a) of this
18 subsection.

19 (d) 1. In addition to the protocols for twenty-four (24) hour access established
20 under paragraphs (b) and (c) of this subsection, ~~before January 1, 2019,~~
21 ~~the~~ Court of Justice shall provide protocols for filing, including
22 electronic filing, of petitions for orders of protection at those regional
23 rape crisis centers designated under KRS 211.600, or regional domestic
24 violence shelters designated under KRS 209A.045, that elect to
25 participate in any county's twenty-four (24) hour access protocol.

26 2. These protocols shall be subject to Supreme Court review for approval
27 of the initial protocol and any subsequent amendments.

1 (7) Any judge to whom a petition is referred under subsection (6) of this section shall
2 have full authority to review and hear a petition and subsequently grant and enforce
3 an interpersonal protective order.

4 (8) If the judge of a court in which there is a pending request for modification or
5 enforcement of an existing order of protection is unavailable or unable to act within
6 a reasonable time, the proceedings may be conducted by any judge of the county in
7 accordance with court rules.

8 ➔Section 3. KRS 456.035 is amended to read as follows:

9 (1) Any petition filed under KRS 456.030 on behalf of a minor who is an alleged
10 victim of dating violence and abuse, sexual assault, ~~for~~stalking, or school violence
11 or in which a minor is named as a respondent or petitioner, shall comply with the
12 requirements in that section and shall:

13 (a) Proceed in accordance with the procedural safeguards under KRS 610.070;
14 and

15 (b) Conform to the confidentiality provisions under KRS 610.340.

16 (2) If the court orders an evidentiary hearing under KRS 456.040(1)(a), a guardian ad
17 litem shall be appointed for any unrepresented minor who is a respondent to the
18 action or a petitioner who is an alleged victim of dating violence and abuse, sexual
19 assault, ~~for~~stalking, or school violence. The guardian ad litem shall be paid a fee
20 fixed by the court not to exceed five hundred dollars (\$500), which shall be paid by
21 the Finance and Administration Cabinet.

22 (3) Violation of the terms or conditions of an order of protection issued under KRS
23 456.060 after the person has been served or given notice of the order shall
24 constitute contempt of court and may constitute a criminal offense pursuant to KRS
25 456.180 if the offender is an adult or a public offense under KRS 600.020(51) if the
26 offender is a juvenile. Once a juvenile action or contempt proceeding has been
27 initiated, the other shall not be undertaken regardless of the outcome of the original

1 proceeding.

2 (4) Nothing in subsection (3) of this section shall preclude the Commonwealth from
3 proceeding, or the petitioner from pursuing charges, against the minor respondent
4 for offenses other than a violation of an order of protection. Proceedings against a
5 minor respondent for offenses other than a violation of an order of protection shall
6 proceed:

7 (a) In the juvenile session of District Court; and

8 (b) In accordance with the procedural and statutory provisions established for the
9 juvenile session of District Court.

10 ➔Section 4. KRS 456.040 is amended to read as follows:

11 (1) (a) The court shall review a petition for an interpersonal protective order
12 immediately upon its filing. If the review indicates that dating violence and
13 abuse, stalking, ~~for~~sexual assault, **or school violence** exists, the court shall
14 **issue a** summons the parties to an evidentiary hearing not more than fourteen
15 (14) days in the future. If the review indicates that ~~such~~a basis does not
16 exist, the court may consider an amended petition or dismiss the petition
17 without prejudice.

18 (b) Service of the summons and hearing order under this subsection shall be made
19 upon the adverse party personally and may be made in the manner and by the
20 persons authorized to serve subpoenas under Rule 45.03 of the Rules of Civil
21 Procedure. A summons may be reissued if service has not been made on the
22 adverse party by the fixed court date and time.

23 (2) (a) If the review under this section also indicates the presence of an immediate
24 and present danger of dating violence and abuse, sexual assault, ~~for~~stalking,
25 **or school violence**, the court shall, upon the filing of the petition, issue ex
26 parte a temporary interpersonal protective order that:

27 1. Authorizes relief appropriate to the situation utilizing the alternatives

- 1 ~~under~~~~[set out in]~~ KRS 456.060;
- 2 2. Sets forth which communications, if any, as requested by the petitioner,
- 3 are authorized and which communications are unauthorized;
- 4 3. Expires upon the conclusion of the evidentiary hearing required by this
- 5 section unless extended or withdrawn by subsequent order of the court;
- 6 and
- 7 4. Does not order or refer the parties to mediation unless requested by the
- 8 petitioner, and the court finds that:
 - 9 a. The petitioner's request is voluntary and not the result of coercion;
 - 10 and
 - 11 b. Mediation is a realistic and viable alternative to or adjunct to the
 - 12 issuance of an order sought by the petitioner.

13 ~~[Nothing in]~~ This paragraph shall **not** be interpreted to place any restriction or

14 restraint on the petitioner.

15 (b) If an order is not issued under this subsection, the court shall note on the

16 petition, for the record, any action taken or denied and the reason for it.

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

18 (1) Following a hearing ordered under KRS 456.040, if a court finds by a

19 preponderance of the evidence that dating violence and abuse, sexual assault, ~~for~~

20 ~~stalking,~~ **or school violence** has occurred and may again occur, the court may issue

21 an interpersonal protective order:

- 22 (a) Restraining the adverse party from:
 - 23 1. Committing further acts of dating violence and abuse, stalking, ~~for~~
 - 24 ~~sexual assault,~~ **or school violence**;
 - 25 2. Any unauthorized contact or communication with the petitioner or other
 - 26 person specified by the court;
 - 27 3. Approaching the petitioner or other person specified by the court within

- 1 a distance specified in the order, not to exceed five hundred (500) feet;
- 2 4. Going to or within a specified distance of a specifically described
- 3 residence, school, or place of employment or area where such a place is
- 4 located; and
- 5 5. Disposing of or damaging any of the property of the parties;
- 6 (b) Authorizing, at the request of the petitioner:
- 7 1. Limited contact or communication between the parties that the court
- 8 finds necessary; or
- 9 2. The parties to remain in a common area, which may necessitate them
- 10 being closer than five hundred (500) feet under limited circumstances
- 11 with specific parameters set forth by the court.
- 12 ~~[Nothing in]~~ This paragraph shall ***not*** be interpreted to place any restriction or
- 13 restraint on the petitioner;
- 14 (c) Directing or prohibiting any other actions that the court believes will ***assist***~~be~~
- 15 ~~of assistance]~~ in eliminating future acts of dating violence and abuse, stalking,
- 16 ~~for]~~ sexual assault, ***or school violence***, except that the court shall not order the
- 17 petitioner to take any affirmative action;
- 18 (d) Directing that either or both of the parties receive counseling services
- 19 available in the community in dating violence and abuse cases; and
- 20 (e) Awarding possession of any shared domestic animal to the petitioner.
- 21 (2) In imposing a location restriction described in subsection (1)(a)4. of this section, the
- 22 court shall:
- 23 (a) Afford the petitioner and respondent, if present, an opportunity to testify on
- 24 the issue of the locations and areas from which the respondent should or
- 25 should not be excluded;
- 26 (b) Only impose a location restriction where there is a specific, demonstrable
- 27 danger to the petitioner or other person protected by the order;

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

3 (d) Consider structuring a restriction ~~{so as }~~to allow the respondent transit
4 through an area if the respondent does not interrupt his or her travel to harass,
5 harm, or attempt to harass or harm the petitioner.

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

11 ➔Section 6. KRS 456.070 is amended to read as follows:

12 (1) A temporary or ordinary interpersonal protective order shall become effective and
13 binding on the respondent when the respondent is given notice of the existence and
14 terms of the order by a peace officer or the court or upon personal service of the
15 order, whichever is earlier. A peace officer or court giving notice of an unserved
16 order shall make all reasonable efforts to arrange for the order's personal service
17 upon the respondent. Once effective, a peace officer or the court may enforce the
18 order's terms and act immediately upon their violation.

19 (2) Costs, fees, or bond shall not be assessed against or required of a petitioner for any
20 filing, hearing, service, or order authorized by or required to implement this
21 chapter.

22 (3) A court shall not require mediation, conciliation, or counseling prior to or as a
23 condition of issuing an interpersonal protective order.

24 (4) Mutual protective orders may be issued only if:

25 (a) Separate petitions have been filed by both parties; and

26 (b) The orders are written with sufficient specificity to allow any peace officer to
27 identify which party has violated the order.

- 1 (5) Upon proper filing of a motion, either party may seek to amend an interpersonal
2 protective order.
- 3 (6) Testimony offered by an adverse party in a hearing ordered pursuant to KRS
4 456.040 shall not be admissible in any criminal proceeding involving the same
5 parties except for purposes of impeachment.
- 6 (7) (a) The Court of Justice, county and Commonwealth's attorneys, law enforcement
7 agencies, and victim services organizations may jointly operate an
8 interpersonal protective order intake center to assist persons who apply for
9 relief under this chapter.
- 10 (b) In cases where criminal conduct is alleged, a court may suggest that a
11 petitioner voluntarily contact the county attorney. A court may not withhold
12 or delay relief if the petitioner elects to not contact the county attorney.
- 13 (8) A person's right to apply for relief under this chapter shall not be affected by that
14 person leaving his or her residence to avoid dating violence and abuse, sexual
15 assault, ~~for~~ stalking, or school violence.
- 16 (9) A court shall order the omission or deletion of the petitioner's address and the
17 address of any minor children from any orders or documents to be made available
18 to the public or to any person who engaged in the acts complained of in the petition.
- 19 (10) (a) If a petition under this chapter did not result in the issuance of a non-
20 temporary interpersonal protective order, the court in which the petition was
21 heard may for good cause shown order the expungement of the records of the
22 case if:
- 23 1. Six (6) months have elapsed since the case was dismissed; and
 - 24 2. During the six (6) months preceding the expungement request, the
25 respondent has not been bound by an order of protection issued for the
26 protection of any person including an order of protection as defined in
27 KRS 403.720.

1 (b) As used in this subsection, "expungement" has the same meaning as in KRS
2 431.079.

3 ➔Section 7. KRS 456.090 is amended to read as follows:

4 (1) A court issuing an interpersonal protective order shall direct the appropriate law
5 enforcement agency to assist the petitioner in having the provisions of the order
6 complied with.

7 (2) When a law enforcement officer has reason to suspect that a person has been the
8 victim of dating violence and abuse, sexual assault, ~~for~~stalking, **or school**
9 **violence**, the officer shall use all reasonable means to provide assistance to the
10 victim, including but not limited to:

11 (a) Remaining at the location of the call for assistance so long as the officer
12 reasonably suspects there is danger to the physical safety of individuals there
13 without the presence of a law enforcement officer;

14 (b) Assisting the victim in obtaining medical treatment, including transporting the
15 victim to the nearest medical facility capable of providing the necessary
16 treatment;

17 (c) Advising the victim immediately of the rights available to them, including the
18 provisions of this chapter; and

19 (d) Completing a JC-3 form, or its equivalent replacement, and providing the
20 information to the Criminal Justice Statistical Analysis Center pursuant to
21 KRS 209A.110.

22 (3) Orders of protection shall be enforced in any county of the Commonwealth.

23 (4) Officers acting in good faith under this chapter shall be immune from criminal and
24 civil liability.