

1 AN ACT relating to confiscated firearms.

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

3 ➔Section 1. KRS 16.220 is amended to read as follows:

- 4 (1) Subject to the duty to return confiscated firearms to innocent owners pursuant to
5 KRS 500.090, **and subsection (7) of this section,** all firearms confiscated by the
6 Department of Kentucky State Police and not retained for official use pursuant to
7 KRS 500.090 shall be ~~sold at public auction to~~:
- 8 (a) **Sold at public auction to** federally licensed firearms dealers holding a license
9 appropriate for the type of firearm sold; or
- 10 (b) For a firearm which was used in a **criminal** homicide, **destroyed**~~any person~~
11 ~~who certifies on a form provided by the Department of Kentucky State Police~~
12 ~~prior to placing a bid that he or she will, upon completion of the auction, leave~~
13 ~~the firearm with the Department of Kentucky State Police for destruction. A~~
14 ~~state or local government or agency thereof shall not purchase a firearm under~~
15 ~~this paragraph~~.
- 16 (2) Any provision of KRS Chapter 45 or 45A relating to disposition of property to the
17 contrary notwithstanding, the Department of Kentucky State Police shall:
- 18 (a) Conduct any auction specified by this section;
- 19 (b) Retain for departmental use twenty percent (20%) of the gross proceeds from
20 any auction specified by this section; **and**
- 21 (c) Transfer remaining proceeds of the sale to the account of the Kentucky Office
22 of Homeland Security for use as provided in subsection (5) of this section~~;~~
23 ~~and~~
- 24 ~~(d) For any sale pursuant to subsection (1)(b) of this section, destroy the firearm~~.
- 25 (3) Prior to the **destruction or** sale of any firearm, the Department of Kentucky State
26 Police shall make an attempt to determine if the firearm to be **destroyed or** sold has
27 been stolen or otherwise unlawfully obtained from an innocent owner and return the

1 firearm to its lawful innocent owner, unless that person is ineligible to purchase a
2 firearm under federal law.

3 (4) The Department of Kentucky State Police shall receive firearms and ammunition
4 confiscated by or abandoned to every law enforcement agency in Kentucky. The
5 department shall dispose of the firearms received in the manner specified in
6 subsections (1) and (2) of this section. However, firearms ~~that~~^{which} are not
7 retained for official use, returned to an innocent lawful owner, destroyed, or
8 transferred to another government agency or public museum shall be sold as
9 provided in subsection (1) of this section.

10 (5) The proceeds of firearms sales shall be utilized by the Kentucky Office of
11 Homeland Security to provide grants to city, county, charter county, unified local
12 government, urban-county government, and consolidated local government police
13 departments; university safety and security departments organized pursuant to KRS
14 164.950; school districts that employ special law enforcement officers as defined in
15 KRS 61.900; airport safety and security departments established under KRS
16 183.880; and sheriff's departments for the purchase of:

- 17 (a) Body armor for sworn peace officers of those departments and service
18 animals, as defined in KRS 525.010, of those departments;
19 (b) Firearms or ammunition;
20 (c) Electronic control devices, electronic control weapons, or electro-muscular
21 disruption technology; and
22 (d) Body-worn cameras.

23 In awarding grants under this section, the Kentucky Office of Homeland Security
24 shall give first priority to providing and replacing body armor and second priority to
25 providing firearms and ammunition, with residual funds available for the purchase
26 of body-worn cameras, electronic control devices, electronic control weapons, or
27 electro-muscular disruption technology. Body armor purchased by the department

1 receiving grant funds shall meet or exceed the standards issued by the National
2 Institute of Justice for body armor. No police or sheriff's department shall apply for
3 a grant to replace existing body armor unless that body armor has been in actual use
4 for a period of five (5) years or longer. Any department applying for grant funds for
5 body-worn cameras shall develop a policy for their use and shall submit that policy
6 with its application for the grant funds to the Office of Homeland Security as part of
7 the application process.

8 (6) The Department of Kentucky State Police may transfer a machine gun, short-
9 barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any
10 other weapon, or destructive device as defined by the National Firearms Act in 26
11 U.S.C. sec. 5845(f), which is subject to registration under the National Firearms
12 Act, 26 U.S.C. ch. 53, and is not properly registered in the national firearms transfer
13 records for those types of weapons, to the Bureau of Alcohol, Tobacco, ~~and~~
14 ~~Firearms~~ and Explosives of the United States Department of Justice, after a
15 reasonable attempt has been made to transfer the firearm to an eligible state or local
16 law enforcement agency or to an eligible museum and no eligible recipient will take
17 the firearm or weapon. National Firearms Act firearms and weapons which are
18 properly registered and not returned to an innocent lawful owner or retained for
19 official use as provided in this section shall be destroyed or sold in accordance with
20 subsection (1) of this section.

21 (7) The commissioner or the commissioner's designee may order the destruction of
22 any firearm confiscated by the Department of Kentucky State Police and not
23 retained for official use, or any firearm coming into the custody of another law
24 enforcement agency and transferred to the Department of Kentucky State Police
25 for disposition as required by Section 2 of this Act, if the commissioner or the
26 commissioner's designee determines in his or her sole discretion that the firearm:
27 (a) Has been defaced so as to render illegible, or partially illegible, the serial

1 number or other markings required by state or federal law to be placed on
2 such firearm prior to its sale by a licensed manufacturer or licensed
3 importer;

4 (b) Is contaminated with a hazardous substance or biological materials
5 including body tissue, organs, or body parts, to an extent that would make
6 the firearm hazardous to health or the environment;

7 (c) Is unsafe to discharge in the manner for which it was designed, due to
8 damage or alteration; or

9 (d) Is subject to return to an innocent owner who has requested, in writing, that
10 the Department of Kentucky State Police destroy the firearm.

11 ➔Section 2. KRS 500.090 is amended to read as follows:

12 (1) Except as provided in KRS 500.092, all property which is subject to forfeiture
13 under any section of the Kentucky Penal Code shall be disposed of in the following
14 manner:~~[accordance with this section.]~~

15 (a) Property other than firearms which is forfeited under any section of this code
16 may, upon order of the trial court, be destroyed by the sheriff of the county in
17 which the conviction was obtained:~~[.]~~

18 (b) Property other than firearms which is forfeited under any section of this code
19 may, upon order of the trial court, be sold at public auction. The expenses of
20 keeping and selling such property and the amount of all valid recorded liens
21 that are established by intervention as being bona fide shall be paid out of the
22 proceeds of the sale. The balance shall be paid to:

- 23 1. The state, if the property was seized by an agency of the state or peace
24 officer thereof;
- 25 2. The county, if the property was seized by the sheriff or an agency or
26 peace officer of the county;
- 27 3. The Department of Fish and Wildlife Resources, if the property was

1 seized by a peace officer of the Department of Fish and Wildlife or was
2 seized by any other officer for violation of KRS Chapter 150;

3 4. The city, if the property was seized by the city or by an agency or peace
4 officer thereof and the property was delivered to the city property clerk;

5 5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten
6 percent (10%) of the proceeds), if the property was seized by the city or
7 by an agency or peace officer thereof and the property was delivered to
8 the sheriff or the county police; or

9 6. The state, if the property was seized by any combination of agencies
10 listed above;~~[-]~~

11 (c) 1. Subject to the duty to return confiscated firearms and ammunition to
12 innocent owners pursuant to this section, all firearms and ammunition
13 confiscated by a state or local law enforcement agency, all firearms
14 ordered forfeited by a court, and all abandoned firearms and ammunition
15 coming into the custody of a state or local law enforcement agency and
16 not retained for official use shall be transferred to the Department of
17 Kentucky State Police for disposition as provided by KRS 16.220,
18 except as provided in paragraph (d) of this subsection.

19 2. a. The transfer shall occur not more than ninety (90) days after the
20 abandonment of the firearm or ammunition to the law enforcement
21 agency or not more than ninety (90) days after its confiscation,
22 unless a court requires the firearm or ammunition for use as
23 evidence, in which case it shall be transferred to the Department of
24 Kentucky State Police not more than ninety (90) days following
25 the order of forfeiture by the court or after the court returns the
26 firearm or ammunition from use as evidence.

27 b. Firearms transferred to the Department of Kentucky State Police

for disposition under this paragraph shall not be intentionally damaged, modified, or disabled by the agency having custody of the firearm, prior to the firearm transfer, except as may be necessary for forensic testing or examination in the course of criminal investigation or prosecution or civil proceedings.

3. Prior to the destruction or sale of any firearm or ammunition, the law enforcement agency shall make a bona fide attempt to determine if the firearm or ammunition to be destroyed or sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm and ammunition to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law.

4. This subsection relating to auction of firearms and ammunition shall not apply to firearms and ammunition auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms and ammunition of the type auctioned;[-]

(d) 1. Subject to the duty to return confiscated firearms to innocent owners pursuant to this section, all firearms used in a criminal homicide shall, upon order of the trial court, be destroyed by the agency having custody of the firearm.

2. The agency having custody of the firearm shall not retain the firearm for official use or transfer it to the Department of Kentucky State Police for disposition. The agency shall destroy the firearm not more than ninety (90) days after the court orders the destruction;

(e) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such

1 property. Property which is abandoned pursuant to this section shall be
2 returned to the lawful claimant upon payment of expenses for keeping the
3 property; and[-]

4 ~~(f)(e)}~~ 1. Property which is forfeited under any section of this code may,
5 upon order of the trial court, be retained for official use in the following
6 manner;[-]

7 a. Property which has been seized by an agency of the state may be
8 retained for official state use;[-]

9 b. Property which has been seized by an agency of county, city, or
10 urban-county government may be retained for official use by the
11 government whose agency seized the property or for official state
12 use; and[-]

13 c. Property seized by any other unit of government may be retained
14 only for official state use.

15 2. The expenses for keeping and transferring such property shall be paid by
16 the unit of government by which the property is retained.

17 (2) Money which has been obtained or conferred in violation of any section of this code
18 shall, upon conviction, be forfeited for the use of the state. This subsection shall not
19 apply when, during the course of the proceeding in which the conviction is
20 obtained, the person from whom said money was unlawfully acquired is identified.

21 (3) Property forfeited under any section of this code shall be disposed of in accordance
22 with this section only after being advertised pursuant to KRS Chapter 424. This
23 subsection shall not apply to property which is designed and suitable only for
24 criminal use or to money forfeited under subsection (2) of this section.

25 (4) The trial court shall remit the forfeiture of property when the lawful claimant:

26 (a) Asserts his or her claim before disposition of the property pursuant to this
27 section;

- 1 (b) Establishes his or her legal interest in the property; and
- 2 (c) Establishes that the unlawful use of the property was without his or her
- 3 knowledge and consent. This subsection shall not apply to a lienholder of
- 4 record when the trial court elects to dispose of the property pursuant to
- 5 subsection (1)(b) of this section.
- 6 (5) For purposes of this section, "lawful claimant" means owner or lienholder of record.
- 7 (6) (a) Before property which has had its identity obscured in violation of KRS
- 8 514.120 may be sold or retained for official use as provided in this section, the
- 9 court shall cause a serial or other identifying number to be placed thereon, and
- 10 a record of the number assigned shall be placed in the court order authorizing
- 11 the sale or retention of the property.
- 12 (b) This number shall be assigned, whenever applicable, in consultation with the
- 13 Department of Kentucky State Police and any other state or federal regulatory
- 14 agency.
- 15 (c) The purchaser of the property shall be given a document stating that the
- 16 property had been forfeited pursuant to law and that a number, shown on the
- 17 document, has been assigned which shall be deemed as compliance of the
- 18 owner with KRS 514.120.
- 19 (d) When property is returned to an owner pursuant to this section and its identity
- 20 has been obscured by another person in violation of KRS 514.120, the court
- 21 shall provide a document to the owner relieving him or her of liability for its
- 22 continued possession.
- 23 (e) This document shall serve as evidence of compliance with KRS 514.120 by
- 24 the owner or any person to whom he or she lawfully disposes of the property.
- 25 This section shall not apply to any person after property has been sold or
- 26 returned in compliance with this section who violates the provisions of KRS
- 27 514.120 with respect to that property.

- 1 (7) (a) Before forfeiture of any property under this section, ~~it shall be the duty of~~
2 the trial court shall~~to~~ determine if a lawful owner or claimant to the
3 property has been identified or is identifiable.
- 4 (b) If a lawful owner or claimant has been identified or is identifiable, the court
5 shall notify the owner or claimant that the property is being held and specify a
6 reasonable period of time during which the claim may be made or may, in lieu
7 thereof, order the return of the property to the lawful owner or claimant.
- 8 (c) If the lawful owner or claimant does not assert his or her claim to the property
9 after notification or if he or she renounces his or her claim to the property, the
10 property shall be disposed of as provided in this section.
- 11 (d) ~~It shall be the duty of~~ All peace officers and other public officers or officials
12 having knowledge of the lawful owner or claimant of property subject to
13 forfeiture shall~~to~~ report the same to the trial court before the act of forfeiture
14 occurs.
- 15 ➔Section 3. KRS 15.440 is amended to read as follows:
- 16 (1) Each unit of government that meets the following requirements shall be eligible to
17 share in the distribution of funds from the Law Enforcement Foundation Program
18 fund:
- 19 (a) Employs one (1) or more police officers;
- 20 (b) Pays every police officer at least the minimum federal wage;
- 21 (c) Requires all police officers to have, at a minimum, a high school degree, or its
22 equivalent as determined by the council, except that each police officer
23 employed prior to the date on which the officer's police department was
24 included as a participant under KRS 15.410 to 15.510 shall be deemed to have
25 met the requirements of this subsection;
- 26 (d) 1. Requires all police officers to successfully complete a basic training
27 course of nine hundred twenty-eight (928) hours' duration within one (1)

1 year of the date of employment at a school certified or recognized by the
2 council, which may provide a different number of hours of instruction as
3 established in this paragraph, except that each police officer employed
4 prior to the date on which the officer's police department was included
5 as a participant under KRS 15.410 to 15.510 shall be deemed to have
6 met the requirements of this subsection.

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

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

20 4. Nothing in this paragraph shall be interpreted to prevent the council,
21 pursuant to its authority under KRS 15.330, from approving training
22 schools with a curriculum requiring attendance of a number of hours
23 that exceeds nine hundred twenty-eight (928) hours or the number of
24 hours established in an administrative regulation as provided by
25 subparagraphs 2. and 3. of this paragraph. However, the training
26 programs and schools for the basic training of law enforcement
27 personnel conducted by the department pursuant to KRS 15A.070 shall

1 not contain a curriculum that requires attendance of a number of hours
2 for basic training that is different from nine hundred twenty-eight (928)
3 hours or the number of hours established in an administrative regulation
4 promulgated by the council pursuant to the provisions of KRS Chapter
5 13A as provided by subparagraphs 2. and 3. of this paragraph.

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

10 a. Years of service credit as a law enforcement officer with previous
11 service in another state; and

12 b. Basic training completed in another state.

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

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

19 b. A minimum of fifteen (15) years of experience as a certified law
20 enforcement instructor at a school established pursuant to KRS
21 15A.070;

22 c. Completion of an average of forty (40) hours of Kentucky Law
23 Enforcement Council approved in-service training annually from
24 January 1, 1997, through January 1, 2020;

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

26 i. City, county, urban-county, charter county, consolidated
27 local, or unified local government police officer;

- 1 ii. Sheriff's deputy, excluding special deputies appointed under
- 2 KRS 70.045;
- 3 iii. Department of Kentucky State Police officer; or
- 4 iv. Kentucky Department of Fish and Wildlife Resources game
- 5 warden exercising peace officer powers under KRS 150.090;
- 6 and
- 7 e. Completion of the:
 - 8 i. Twenty-four (24) hour legal update Penal Code course;
 - 9 ii. Sixteen (16) hour legal update constitutional procedure
 - 10 course; and
 - 11 iii. Forty (40) hour basic officer skills course within one (1) year
 - 12 prior to applying for certification;
- 13 (e) Requires all police officers to successfully complete each calendar year an in-
- 14 service training course, appropriate to the officer's rank and responsibility and
- 15 the size and location of the officer's police department, of forty (40) hours'
- 16 duration, at a school certified or recognized by the council which may include
- 17 a four (4) hour course which meets the requirements of paragraph (j) of this
- 18 subsection. This in-service training requirement shall be waived for the period
- 19 of time that a peace officer is serving on active duty in the United States
- 20 Armed Forces. This waiver shall be retroactive for peace officers from the
- 21 date of September 11, 2001;
- 22 (f) Complies with all provisions of law applicable to police officers or police
- 23 departments, including transmission of data to the centralized criminal history
- 24 record information system as required by KRS 17.150 and transmission of
- 25 reports as required by KRS 15.391;
- 26 (g) Complies with all rules and regulations, appropriate to the size and location of
- 27 the police department issued by the cabinet to facilitate the administration of

- 1 the fund and further the purposes of KRS 15.410 to 15.510;
- 2 (h) Possesses a written policy and procedures manual related to domestic violence
- 3 for law enforcement agencies that has been approved by the cabinet. The
- 4 policy shall comply with the provisions of KRS 403.715 to 403.785. The
- 5 policy shall include a purpose statement; definitions; supervisory
- 6 responsibilities; procedures for twenty-four (24) hour access to protective
- 7 orders; procedures for enforcement of court orders or relief when protective
- 8 orders are violated; procedures for timely and contemporaneous reporting of
- 9 adult abuse and domestic violence to the Cabinet for Health and Family
- 10 Services, Department for Community Based Services; victim rights,
- 11 assistance, and service responsibilities; and duties related to timely
- 12 completion of records;
- 13 (i) Possesses by January 1, 2023, a written policy and procedures manual related
- 14 to sexual assault examinations that meets the standards provided by, and has
- 15 been approved by, the cabinet, and which includes:
- 16 1. A requirement that evidence collected as a result of an examination
- 17 performed under KRS 216B.400 be taken into custody within five (5)
- 18 days of notice from the collecting facility that the evidence is available
- 19 for retrieval;
- 20 2. A requirement that evidence received from a collecting facility relating
- 21 to an incident which occurred outside the jurisdiction of the police
- 22 department be transmitted to a police department with jurisdiction
- 23 within ten (10) days of its receipt by the police department;
- 24 3. A requirement that all evidence retrieved from a collecting facility under
- 25 this paragraph be transmitted to the Department of Kentucky State
- 26 Police forensic laboratory within thirty (30) days of its receipt by the
- 27 police department;

- 1 4. A requirement that a suspect standard, if available, be transmitted to the
2 Department of Kentucky State Police forensic laboratory with the
3 evidence received from a collecting facility;
- 4 5. A process for notifying the victim from whom the evidence was
5 collected of the progress of the testing, whether the testing resulted in a
6 match to other DNA samples, and if the evidence is to be destroyed. The
7 policy may include provisions for delaying notice until a suspect is
8 apprehended or the office of the Commonwealth's attorney consents to
9 the notification, but shall not automatically require the disclosure of the
10 identity of any person to whom the evidence matched; and
- 11 6. A requirement that DNA samples collected as a result of an examination
12 performed under KRS 216B.400 that are voluntarily submitted solely for
13 elimination purposes shall not be checked against any DNA index,
14 retained, or included in any DNA index;~~[-and]~~
- 15 (j) *Possesses by January 1, 2027, a written policy and procedures manual*
16 *related to destruction of firearms used in criminal homicides, which*
17 *includes a requirement that all firearms used in a criminal homicide are*
18 *destroyed in a manner which deems the firearm inoperable and disposed of*
19 *in a manner so that no parts of the firearm are functional; and*
- 20 (k) 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 of
22 not less than four (4) hours in emergency vehicle operation.
- 23 (2) A unit of government which meets the criteria of this section shall be eligible to
24 continue sharing in the distribution of funds from the Law Enforcement Foundation
25 Program fund only if the police department of the unit of government remains in
26 compliance with the requirements of this section.
- 27 (3) Deputies employed by a sheriff's office shall be eligible to participate in the

1 distribution of funds from the Law Enforcement Foundation Program fund
2 regardless of participation by the sheriff.

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

7 ➔Section 4. KRS 15.512 is amended to read as follows:

8 Each law enforcement agency or other employing agency whose officers are required to
9 meet the training requirements of KRS 15.440(1)(~~k~~)(~~g~~) shall retain a record of each of
10 its officers having met the biennial training. These records shall be made available upon
11 request to the Kentucky Law Enforcement Council and to the Justice and Public Safety
12 Cabinet.