

1 AN ACT relating to cannabis.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) A person twenty-one (21) years of age or older who knowingly and unlawfully*
6 *possesses, traffics, or cultivates a personal use quantity of cannabis shall not be*
7 *subject to any penalty for that activity.*

8 *(2) Possession, trafficking, or cultivation of a personal use quantity of cannabis*
9 *under this section shall not be considered a criminal offense.*

10 *(3) A person shall not be subject to arrest for possession, trafficking, or cultivation of*
11 *a personal use quantity of cannabis.*

12 *(4) If a person has been released on probation, parole, conditional release, or other*
13 *form of release and is subject to conditions of supervision, then the possession,*
14 *trafficking, or cultivation of a personal use quantity of cannabis shall not*
15 *constitute grounds for revocation or other sanctions.*

16 ➔Section 2. KRS 218A.010 is amended to read as follows:

17 As used in this chapter, unless the context otherwise requires:

18 (1) "Administer" means the direct application of a controlled substance, whether by
19 injection, inhalation, ingestion, or any other means, to the body of a patient or
20 research subject by:

21 (a) A practitioner or by his or her authorized agent under his or her immediate
22 supervision and pursuant to his or her order; or

23 (b) The patient or research subject at the direction and in the presence of the
24 practitioner;

25 (2) "Anabolic steroid" means any drug or hormonal substance chemically and
26 pharmacologically related to testosterone that promotes muscle growth and includes
27 those substances classified as Schedule III controlled substances pursuant to KRS

1 218A.020 but does not include estrogens, progestins, and anticonosteroids;

2 (3) "Cabinet" means the Cabinet for Health and Family Services;

3 (4) "Cannabis" means all parts of the plant Cannabis sp., whether growing or not;
4 the seeds thereof; the resin extracted from any part of the plant; and every
5 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its
6 seeds or resin, or any compound, mixture, or preparation which contains any
7 quantity of these substances. The term "cannabis" does not include:

8 (a) Industrial hemp that is in the possession, custody, or control of a person
9 who holds a license issued by the Department of Agriculture permitting that
10 person to cultivate, handle, or process industrial hemp;

11 (b) Industrial hemp products that do not include any living plants, viable seeds,
12 or leaf materials;

13 (c) The substance cannabidiol, when transferred, dispensed, or administered
14 pursuant to the written order of a physician practicing at a hospital or
15 associated clinic affiliated with a Kentucky public university having a
16 college or school of medicine;

17 (d) For persons participating in a clinical trial or in an expanded access
18 program, a drug or substance approved for the use of those participants by
19 the United States Food and Drug Administration;

20 (e) A cannabidiol product derived from industrial hemp, as defined in KRS
21 260.850;

22 (f) For the purpose of conducting scientific research, a cannabinoid product
23 derived from industrial hemp, as defined in KRS 260.850;

24 (g) A cannabinoid product approved as a prescription medication by the United
25 States Food and Drug Administration; or

26 (h) Medicinal cannabis as defined in KRS 218B.010;

27 (5) "Cannabis accessory" means drug paraphernalia for the ingestion, inhalation, or

1 *storage of a personal use quantity of cannabis;*

2 (6) "Carfentanil" means any substance containing any quantity of carfentanil, or any of
3 its salts, isomers, or salts of isomers;

4 (7)~~[(5)]~~ "Certified community based palliative care program" means a palliative care
5 program which has received certification from the Joint Commission;

6 (8)~~[(6)]~~ "Child" means any person under the age of majority as specified in KRS
7 2.015;

8 (9)~~[(7)]~~ "Cocaine" means a substance containing any quantity of cocaine, its salts,
9 optical and geometric isomers, and salts of isomers;

10 (10)~~[(8)]~~ "Controlled substance" means methamphetamine, or a drug, substance, or
11 immediate precursor in Schedules I through V and includes a controlled substance
12 analogue;

13 (11)~~[(9)]~~ ~~—(a)~~ "Controlled substance analogue~~[-]~~":

14 (a) Except as provided in paragraph (b) of this subsection, means a substance:

- 15 1. The chemical structure of which is substantially similar to the structure
16 of a controlled substance in Schedule I or II; and
- 17 2. Which has a stimulant, depressant, or hallucinogenic effect on the
18 central nervous system that is substantially similar to or greater than the
19 stimulant, depressant, or hallucinogenic effect on the central nervous
20 system of a controlled substance in Schedule I or II; or
- 21 3. With respect to a particular person, which such person represents or
22 intends to have a stimulant, depressant, or hallucinogenic effect on the
23 central nervous system that is substantially similar to or greater than the
24 stimulant, depressant, or hallucinogenic effect on the central nervous
25 system of a controlled substance in Schedule I or II; and~~[-]~~

26 (b) ~~[(Such term)]~~ Does not include:

- 27 1. Any substance for which there is an approved new drug application;

1 2. With respect to a particular person, any substance if an exemption is in
2 effect for investigational use for that person pursuant to federal law to
3 the extent conduct with respect to such substance is pursuant to such
4 exemption; or

5 3. Any substance to the extent not intended for human consumption before
6 the exemption described in subparagraph 2. of this paragraph takes
7 effect with respect to that substance;

8 (12)~~((10))~~ "Counterfeit substance" means a controlled substance which, or the container
9 or labeling of which, without authorization, bears the trademark, trade name, or
10 other identifying mark, imprint, number, or device, or any likeness thereof, of a
11 manufacturer, distributor, or dispenser other than the person who in fact
12 manufactured, distributed, or dispensed the substance;

13 (13)~~((11))~~ "Dispense" means to deliver a controlled substance to an ultimate user or
14 research subject by or pursuant to the lawful order of a practitioner, including the
15 packaging, labeling, or compounding necessary to prepare the substance for that
16 delivery;

17 (14)~~((12))~~ "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or
18 V controlled substance to or for the use of an ultimate user;

19 (15)~~((13))~~ "Distribute" means to deliver other than by administering or dispensing a
20 controlled substance;

21 (16)~~((14))~~ "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of
22 administration available as a single unit;

23 (17)~~((15))~~ "Drug" means:

24 (a) Substances recognized as drugs in the official United States Pharmacopoeia,
25 official Homeopathic Pharmacopoeia of the United States, or official National
26 Formulary, or any supplement to any of them;

27 (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or

1 prevention of disease in man or animals;

2 (c) Substances (other than food) intended to affect the structure or any function of
3 the body of man or animals; and

4 (d) Substances intended for use as a component of any article specified in this
5 subsection.

6 It does not include devices or their components, parts, or accessories;

7 ~~(18)~~~~(16)~~ "Fentanyl" means a substance containing any quantity of fentanyl, or any of
8 its salts, isomers, or salts of isomers;

9 ~~(19)~~~~(17)~~ "Fentanyl derivative" means a substance containing any quantity of any
10 chemical compound, except compounds specifically scheduled as controlled
11 substances by statute or by administrative regulation pursuant to this chapter, which
12 is structurally derived from 1-ethyl-4-(N-phenylamido) piperadine:

13 (a) By substitution:

- 14 1. At the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or
15 ethyloxotetrazole ring system; and
16 2. Of the terminal amido hydrogen atom with an alkyl, alkoxy, cycloalkyl,
17 or furanyl group; and

18 (b) Which may be further modified in one (1) or more of the following ways:

- 19 1. By substitution on the N-phenyl ring to any extent with alkyl, alkoxy,
20 haloalkyl, hydroxyl, or halide substituents;
21 2. By substitution on the piperadine ring to any extent with alkyl, allyl,
22 alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6-
23 positions;
24 3. By substitution on the piperadine ring to any extent with a phenyl,
25 alkoxy, or carboxylate ester substituent at the 4- position; or
26 4. By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or
27 hydroxy substituents;

1 ~~(20)~~~~(18)~~ "Good-faith prior examination," as used in KRS Chapter 218A and for
2 criminal prosecution only, means an in-person medical examination of the patient
3 conducted by the prescribing practitioner or other health-care professional routinely
4 relied upon in the ordinary course of his or her practice, at which time the patient is
5 physically examined and a medical history of the patient is obtained. "In-person"
6 includes telehealth examinations. This subsection shall not be applicable to hospice
7 providers licensed pursuant to KRS Chapter 216B;

8 ~~(21)~~~~(19)~~ "Hazardous chemical substance" includes any chemical substance used or
9 intended for use in the illegal manufacture of a controlled substance as defined in
10 this section or the illegal manufacture of methamphetamine as defined in KRS
11 218A.1431, which:

- 12 (a) Poses an explosion hazard;
- 13 (b) Poses a fire hazard; or
- 14 (c) Is poisonous or injurious if handled, swallowed, or inhaled;

15 ~~(22)~~~~(20)~~ "Heroin" means a substance containing any quantity of heroin, or any of its
16 salts, isomers, or salts of isomers;

17 ~~(23)~~~~(21)~~ "Hydrocodone combination product" means a drug with:

- 18 (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of
19 its salts, per one hundred (100) milliliters or not more than fifteen (15)
20 milligrams per dosage unit, with a fourfold or greater quantity of an
21 isoquinoline alkaloid of opium; or
- 22 (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of
23 its salts, per one hundred (100) milliliters or not more than fifteen (15)
24 milligrams per dosage unit, with one (1) or more active, nonnarcotic
25 ingredients in recognized therapeutic amounts;

26 ~~(24)~~~~(22)~~ "Immediate precursor" means a substance which is the principal compound
27 commonly used or produced primarily for use, and which is an immediate chemical

1 intermediary used or likely to be used in the manufacture of a controlled substance
2 or methamphetamine, the control of which is necessary to prevent, curtail, or limit
3 manufacture;

4 ~~(25)~~~~[(23)]~~ "Industrial hemp" has the same meaning as in KRS 260.850;

5 ~~(26)~~~~[(24)]~~ "Industrial hemp products" has the same meaning as in KRS 260.850;

6 ~~(27)~~~~[(25)]~~ "Intent to manufacture" means any evidence which demonstrates a person's
7 conscious objective to manufacture a controlled substance or methamphetamine.
8 Such evidence includes but is not limited to statements and a chemical substance's
9 usage, quantity, manner of storage, or proximity to other chemical substances or
10 equipment used to manufacture a controlled substance or methamphetamine;

11 ~~(28)~~~~[(26)]~~ "Isomer" means the optical isomer, except the Cabinet for Health and Family
12 Services may include the optical, positional, or geometric isomer to classify any
13 substance pursuant to KRS 218A.020;

14 ~~(29)~~~~[(27)]~~ "Manufacture," except as provided in KRS 218A.1431, means the production,
15 preparation, propagation, compounding, conversion, or processing of a controlled
16 substance, either directly or indirectly by extraction from substances of natural
17 origin or independently by means of chemical synthesis, or by a combination of
18 extraction and chemical synthesis, and includes any packaging or repackaging of
19 the substance or labeling or relabeling of its container except that this term does not
20 include activities:

21 (a) By a practitioner as an incident to his or her administering or dispensing of a
22 controlled substance in the course of his or her professional practice;

23 (b) By a practitioner, or by his or her authorized agent under his or her
24 supervision, for the purpose of, or as an incident to, research, teaching, or
25 chemical analysis and not for sale; or

26 (c) By a pharmacist as an incident to his or her dispensing of a controlled
27 substance in the course of his or her professional practice;

1 ~~(30)~~~~[(28)]~~ "Marijuana" has the same meaning as "cannabis" in subsection (4) of this

2 section~~[means all parts of the plant Cannabis sp., whether growing or not; the seeds~~
3 ~~thereof; the resin extracted from any part of the plant; and every compound,~~
4 ~~manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin~~
5 ~~or any compound, mixture, or preparation which contains any quantity of these~~
6 ~~substances. The term "marijuana" does not include:~~

7 ~~(a) Industrial hemp that is in the possession, custody, or control of a person who~~
8 ~~holds a license issued by the Department of Agriculture permitting that person~~
9 ~~to cultivate, handle, or process industrial hemp;~~

10 ~~(b) Industrial hemp products that do not include any living plants, viable seeds,~~
11 ~~leaf materials, or floral materials;~~

12 ~~(c) The substance cannabidiol, when transferred, dispensed, or administered~~
13 ~~pursuant to the written order of a physician practicing at a hospital or~~
14 ~~associated clinic affiliated with a Kentucky public university having a college~~
15 ~~or school of medicine;~~

16 ~~(d) For persons participating in a clinical trial or in an expanded access program,~~
17 ~~a drug or substance approved for the use of those participants by the United~~
18 ~~States Food and Drug Administration;~~

19 ~~(e) A cannabidiol product derived from industrial hemp, as defined in KRS~~
20 ~~260.850;~~

21 ~~(f) For the purpose of conducting scientific research, a cannabinoid product~~
22 ~~derived from industrial hemp, as defined in KRS 260.850;~~

23 ~~(g) A cannabinoid product approved as a prescription medication by the United~~
24 ~~States Food and Drug Administration; or~~

25 ~~(h) Medicinal cannabis as defined in KRS 218B.010];~~

26 ~~(31)~~~~[(29)]~~ "Medical history," as used in KRS Chapter 218A and for criminal prosecution

27 only, means an accounting of a patient's medical background, including but not

1 limited to prior medical conditions, prescriptions, and family background;

2 ~~(32)~~~~(30)~~ "Medical order," as used in KRS Chapter 218A and for criminal prosecution
3 only, means a lawful order of a specifically identified practitioner for a specifically
4 identified patient for the patient's health-care needs. "Medical order" may or may
5 not include a prescription drug order;

6 ~~(33)~~~~(31)~~ "Medical record," as used in KRS Chapter 218A and for criminal prosecution
7 only, means a record, other than for financial or billing purposes, relating to a
8 patient, kept by a practitioner as a result of the practitioner-patient relationship;

9 ~~(34)~~~~(32)~~ "Methamphetamine" means any substance that contains any quantity of
10 methamphetamine, or any of its salts, isomers, or salts of isomers;

11 ~~(35)~~~~(33)~~ "Narcotic drug" means any of the following, whether produced directly or
12 indirectly by extraction from substances of vegetable origin, or independently by
13 means of chemical synthesis, or by a combination of extraction and chemical
14 synthesis:

15 (a) Opium and opiate, and any salt, compound, derivative, or preparation of
16 opium or opiate;

17 (b) Any salt, compound, isomer, derivative, or preparation thereof which is
18 chemically equivalent or identical with any of the substances referred to in
19 paragraph (a) of this subsection, but not including the isoquinoline alkaloids
20 of opium;

21 (c) Opium poppy and poppy straw;

22 (d) Coca leaves, except coca leaves and extracts of coca leaves from which
23 cocaine, ecgonine, and derivatives of ecgonine or their salts have been
24 removed;

25 (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

26 (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and

27 (g) Any compound, mixture, or preparation which contains any quantity of any of

1 the substances referred to in paragraphs (a) to (f) of this subsection;

2 ~~(36)~~~~[(34)]~~ "Opiate" means any substance having an addiction-forming or addiction-
3 sustaining liability similar to morphine or being capable of conversion into a drug
4 having addiction-forming or addiction-sustaining liability. It does not include,
5 unless specifically designated as controlled under KRS 218A.020, the
6 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
7 (dextromethorphan). It does include its racemic and levorotatory forms;

8 ~~(37)~~~~[(35)]~~ "Opium poppy" means the plant of the species papaver somniferum L., except
9 its seeds;

10 ~~(38)~~~~[(36)]~~ "Person" means individual, corporation, government or governmental
11 subdivision or agency, business trust, estate, trust, partnership or association, or any
12 other legal entity;

13 **(39) "Personal use quantity of cannabis" means:**

14 **(a) One (1) ounce or less of cannabis in plant form;**

15 **(b) Five (5) grams or less of resin or concentrates derived from hemp,**
16 **cannabis, or cannabinoids, excluding the estimated weight of any**
17 **noncannabis ingredients combined with the cannabis;**

18 **(c) Cannabis products containing one thousand (1,000) milligrams or less of**
19 **delta-9 tetrahydrocannabinol and one thousand (1,000) milligrams or less**
20 **of delta-8 tetrahydrocannabinol; or**

21 **(d) Five (5) or fewer plants of cannabis;**

22 ~~(40)~~~~[(37)]~~ "Physical injury" has the same meaning ~~as it has~~ in KRS 500.080;

23 ~~(41)~~~~[(38)]~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after
24 mowing;

25 ~~(42)~~~~[(39)]~~ "Pharmacist" means a natural person licensed by this state to engage in the
26 practice of the profession of pharmacy;

27 ~~(43)~~~~[(40)]~~ "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific

1 investigator, optometrist as authorized in KRS 320.240, advanced practice
2 registered nurse as authorized under KRS 314.011, physician assistant as authorized
3 under KRS 311.858, or other person licensed, registered, or otherwise permitted by
4 state or federal law to acquire, distribute, dispense, conduct research with respect to,
5 or to administer a controlled substance in the course of professional practice or
6 research in this state. "Practitioner" also includes a physician, dentist, podiatrist,
7 veterinarian, or advanced practice registered nurse authorized under KRS 314.011
8 who is a resident of and actively practicing in a state other than Kentucky and who
9 is licensed and has prescriptive authority for controlled substances under the
10 professional licensing laws of another state, unless the person's Kentucky license
11 has been revoked, suspended, restricted, or probated, in which case the terms of the
12 Kentucky license shall prevail;

13 ~~(44)~~~~((41))~~ "Practitioner-patient relationship," as used in KRS Chapter 218A and for
14 criminal prosecution only, means a medical relationship that exists between a
15 patient and a practitioner or the practitioner's designee, after the practitioner or his
16 or her designee has conducted at least one (1) good-faith prior examination;

17 ~~(45)~~~~((42))~~ "Prescription" means a written, electronic, or oral order for a drug or
18 medicine, or combination or mixture of drugs or medicines, or proprietary
19 preparation, signed or given or authorized by a medical, dental, chiropody,
20 veterinarian, optometric practitioner, or advanced practice registered nurse, and
21 intended for use in the diagnosis, cure, mitigation, treatment, or prevention of
22 disease in man or other animals;

23 ~~(46)~~~~((43))~~ "Prescription blank," with reference to a controlled substance, means a
24 document that meets the requirements of KRS 218A.204 and 217.216;

25 ~~(47)~~~~((44))~~ "Presumptive probation" means a sentence of probation not to exceed the
26 maximum term specified for the offense, subject to conditions otherwise authorized
27 by law, that is presumed to be the appropriate sentence for certain offenses

1 designated in this chapter, notwithstanding contrary provisions of KRS Chapter
2 533. That presumption shall only be overcome by a finding on the record by the
3 sentencing court of substantial and compelling reasons why the defendant cannot be
4 safely and effectively supervised in the community, is not amenable to community-
5 based treatment, or poses a significant risk to public safety;

6 (48)~~[(45)]~~ "Production" includes the manufacture, planting, cultivation, growing, or
7 harvesting of a controlled substance;

8 (49)~~[(46)]~~ "Recovery program" means an evidence-based, nonclinical service that assists
9 individuals and families working toward sustained recovery from substance use and
10 other criminal risk factors. This can be done through an array of support programs
11 and services that are delivered through residential and nonresidential means;

12 (50)~~[(47)]~~ "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the
13 plant presently classified botanically as *Salvia divinorum*, whether growing or not,
14 the seeds thereof, any extract from any part of that plant, and every compound,
15 manufacture, derivative, mixture, or preparation of that plant, its seeds, or its
16 extracts, including salts, isomers, and salts of isomers whenever the existence of
17 such salts, isomers, and salts of isomers is possible within the specific chemical
18 designation of that plant, its seeds, or extracts. The term shall not include any other
19 species in the genus *salvia*;

20 (51)~~[(48)]~~ "Second or subsequent offense" means that for the purposes of this chapter an
21 offense is considered as a second or subsequent offense, if, prior to his or her
22 conviction of the offense, the offender has at any time been convicted under this
23 chapter, or under any statute of the United States, or of any state relating to
24 substances classified as controlled substances or counterfeit substances, except that
25 a prior conviction for a nontrafficking offense shall be treated as a prior offense
26 only when the subsequent offense is a nontrafficking offense. For the purposes of
27 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not

1 constitute a conviction under this chapter;

2 ~~(52)~~~~(49)~~ "Sell" means to dispose of a controlled substance to another person for
3 consideration or in furtherance of commercial distribution;

4 ~~(53)~~~~(50)~~ "Serious physical injury" has the same meaning ~~as it has~~ in KRS 500.080;

5 ~~(54)~~~~(51)~~ "Synthetic cannabinoids or piperazines" means any chemical compound
6 which is not approved by the United States Food and Drug Administration or, if
7 approved, which is not dispensed or possessed in accordance with state and federal
8 law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine
9 (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-
10 Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-
11 211); or any compound in the following structural classes:

12 (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole
13 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
14 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
15 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further
16 substituted in the indole ring to any extent and whether or not substituted in
17 the naphthyl ring to any extent. Examples of this structural class include but
18 are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-
19 122, JWH-200, and AM-2201;

20 (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole
21 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
22 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
23 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
24 substituted in the indole ring to any extent and whether or not substituted in
25 the phenyl ring to any extent. Examples of this structural class include but are
26 not limited to JWH-167, JWH-250, JWH-251, and RCS-8;

27 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with

1 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,
2 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
3 piperidiny)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
4 substituted in the indole ring to any extent and whether or not substituted in
5 the phenyl ring to any extent. Examples of this structural class include but are
6 not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and
7 RCS-4;

8 (d) Cyclohexylphenols: Any compound containing a 2-(3-
9 hydroxycyclohexyl)phenol structure with substitution at the 5-position of the
10 phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
11 cycloalkylethyl, 1-(N-methyl-2-piperidiny)methyl, or 2-(4-morpholinyl)ethyl
12 group whether or not substituted in the cyclohexyl ring to any extent.
13 Examples of this structural class include but are not limited to CP 47,497 and
14 its C8 homologue (cannabicyclohexanol);

15 (e) Naphthylmethylinroles: Any compound containing a 1H-indol-3-yl-(1-
16 naphthyl)methane structure with substitution at the nitrogen atom of the
17 indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
18 1-(N-methyl-2-piperidiny)methyl, or 2-(4-morpholinyl)ethyl group whether
19 or not further substituted in the indole ring to any extent and whether or not
20 substituted in the naphthyl ring to any extent. Examples of this structural class
21 include but are not limited to JWH-175, JWH-184, and JWH-185;

22 (f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole
23 structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl,
24 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
25 piperidiny)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
26 substituted in the pyrrole ring to any extent and whether or not substituted in
27 the naphthyl ring to any extent. Examples of this structural class include but

1 are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;

2 (g) Naphthylmethylindenes: Any compound containing a 1-(1-
3 naphthylmethyl)indene structure with substitution at the 3-position of the
4 indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
5 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether
6 or not further substituted in the indene ring to any extent and whether or not
7 substituted in the naphthyl ring to any extent. Examples of this structural class
8 include but are not limited to JWH-176;

9 (h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-
10 tetramethylcyclopropoyl)indole structure with substitution at the nitrogen
11 atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl,
12 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl
13 group, whether or not further substituted in the indole ring to any extent and
14 whether or not further substituted in the tetramethylcyclopropyl ring to any
15 extent. Examples of this structural class include but are not limited to UR-144
16 and XLR-11;

17 (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole
18 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
19 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
20 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further
21 substituted in the indole ring to any extent and whether or not substituted in
22 the adamantyl ring system to any extent. Examples of this structural class
23 include but are not limited to AB-001 and AM-1248; or

24 (j) Any other synthetic cannabinoid or piperazine which is not approved by the
25 United States Food and Drug Administration or, if approved, which is not
26 dispensed or possessed in accordance with state and federal law;

27 ~~(55)~~~~(52)~~ "Synthetic cathinones" means any chemical compound which is not approved

1 by the United States Food and Drug Administration or, if approved, which is not
2 dispensed or possessed in accordance with state and federal law (not including
3 bupropion or compounds listed under a different schedule) structurally derived from
4 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl,
5 or thiophene ring systems, whether or not the compound is further modified in one
6 (1) or more of the following ways:

7 (a) By substitution in the ring system to any extent with alkyl, alkylendioxy,
8 alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further
9 substituted in the ring system by one (1) or more other univalent substituents.
10 Examples of this class include but are not limited to 3,4-
11 Methylenedioxycathinone (bk-MDA);

12 (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples
13 of this class include but are not limited to 2-methylamino-1-phenylbutan-1-
14 one (buphedrone);

15 (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or
16 methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a
17 cyclic structure. Examples of this class include but are not limited to
18 Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP);
19 or

20 (d) Any other synthetic cathinone which is not approved by the United States
21 Food and Drug Administration or, if approved, is not dispensed or possessed
22 in accordance with state or federal law;

23 ~~(56)~~~~(53)~~ "Synthetic drugs" means any synthetic cannabinoids or piperazines or any
24 synthetic cathinones;

25 ~~(57)~~~~(54)~~ "Telehealth" has the same meaning ~~as it has~~ in KRS 211.332;

26 ~~(58)~~~~(55)~~ "Tetrahydrocannabinols" means synthetic equivalents of the substances
27 contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or

1 synthetic substances, derivatives, and their isomers with similar chemical structure
2 and pharmacological activity such as the following:

- 3 (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
- 4 (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
- 5 (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;

6 ~~(59)~~~~(56)~~ "Traffic," except as provided in KRS 218A.1431, means to manufacture,
7 distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute,
8 dispense, or sell a controlled substance;

9 ~~(60)~~~~(57)~~ "Transfer" means to dispose of a controlled substance to another person
10 without consideration and not in furtherance of commercial distribution; and

11 ~~(61)~~~~(58)~~ "Ultimate user" means a person who lawfully possesses a controlled substance
12 for his or her own use or for the use of a member of his or her household or for
13 administering to an animal owned by him or her or by a member of his or her
14 household.

15 ➔Section 3. KRS 218A.1422 is amended to read as follows:

16 (1) A person is guilty of possession of cannabis~~[marijuana]~~ when he or she knowingly
17 and unlawfully possesses cannabis~~[marijuana]~~, and the possession is not in
18 compliance with, or otherwise authorized by, KRS Chapter 218B.

19 (2) Possession of cannabis~~[marijuana]~~ is a Class B misdemeanor, except that, KRS
20 Chapter 532 to the contrary notwithstanding, the maximum term of incarceration
21 shall be no greater than forty-five (45) days.

22 (3) This section does not apply to:

- 23 (a) A cannabis business or a cannabis business agent, as defined in KRS
24 218B.010, when acting in compliance with KRS Chapter 218B;~~[or]~~
- 25 (b) A cardholder, as defined in KRS 218B.010, whose use of medicinal cannabis
26 is in compliance with KRS Chapter 218B; or

27 (c) A person who possesses a personal use quantity of cannabis.

1 ➔Section 4. KRS 218A.1421 is amended to read as follows:

- 2 (1) A person is guilty of trafficking in cannabis~~[marijuana]~~ when he or she knowingly
3 and unlawfully traffics in cannabis~~[marijuana]~~, and the trafficking is not in
4 compliance with, or otherwise authorized by, KRS Chapter 218B.
- 5 (2) Unless authorized by KRS Chapter 218B, trafficking in less than eight (8) ounces of
6 cannabis~~[marijuana]~~ is:
- 7 (a) For a first offense a Class A misdemeanor; and~~[]~~
8 (b) For a second or subsequent offense a Class D felony.
- 9 (3) Unless authorized by KRS Chapter 218B, trafficking in eight (8) or more ounces
10 but less than five (5) pounds of cannabis~~[marijuana]~~ is:
- 11 (a) For a first offense a Class D felony; and~~[]~~
12 (b) For a second or subsequent offense a Class C felony.
- 13 (4) Unless authorized by KRS Chapter 218B, trafficking in five (5) or more pounds of
14 cannabis~~[marijuana]~~ is:
- 15 (a) For a first offense a Class C felony; and~~[]~~
16 (b) For a second or subsequent offense a Class B felony.
- 17 (5) Unless authorized by KRS Chapter 218B, the unlawful possession by any person of
18 eight (8) or more ounces of cannabis~~[marijuana]~~ shall be prima facie evidence that
19 the person possessed the cannabis~~[marijuana]~~ with the intent to sell or transfer it.
- 20 (6) This section does not apply to:
- 21 (a) A cannabis business or a cannabis business agent, as defined in KRS
22 218B.010, when acting in compliance with KRS Chapter 218B;~~[or]~~
23 (b) A cardholder, as defined in KRS 218B.010, whose use of medicinal cannabis
24 is in compliance with KRS Chapter 218B; or
25 (c) A person who traffics a personal use quantity of cannabis.

26 ➔Section 5. KRS 218A.1423 is amended to read as follows:

- 27 (1) A person is guilty of cannabis~~[marijuana]~~ cultivation when he or she knowingly

1 and unlawfully plants, cultivates, or harvests cannabis~~[marijuana]~~ with the intent to
2 sell or transfer it, and the cultivation is not in compliance with, or otherwise
3 authorized by, KRS Chapter 218B.

4 (2) Unless authorized by KRS Chapter 218B, cannabis~~[marijuana]~~ cultivation of five
5 (5) or more plants of cannabis~~[marijuana]~~ is:

6 (a) For a first offense a Class D felony; and~~[.]~~

7 (b) For a second or subsequent offense a Class C felony.

8 (3) ~~[Unless authorized by KRS Chapter 218B, marijuana]~~ Cultivation of a personal
9 use quantity of cannabis shall not:

10 (a) Be subject to any penalty;

11 (b) Be considered a criminal offense; or

12 (c) Subject a person to arrest for cannabis cultivation~~[fewer than five (5) plants]~~
13 is:

14 ~~(a) For a first offense a Class A misdemeanor.~~

15 ~~(b) For a second or subsequent offense a Class D felony].~~

16 (4) Unless authorized by KRS Chapter 218B, the planting, cultivating, or harvesting of
17 more than five (5)~~[or more]~~ cannabis~~[marijuana]~~ plants shall be prima facie
18 evidence that the cannabis~~[marijuana]~~ plants were planted, cultivated, or harvested
19 for the purpose of sale or transfer.

20 (5) This section does not apply to:

21 (a) A cannabis business or a cannabis business agent, as defined in KRS
22 218B.010, when acting in compliance with KRS Chapter 218B; or

23 (b) A person who cultivates a personal use quantity of cannabis.

24 ➔Section 6. KRS 218A.500 is amended to read as follows:

25 As used in this section and KRS 218A.510:

26 (1) "Drug paraphernalia" means all equipment, products and materials of any kind
27 which are used, intended for use, or designed for use in planting, propagating,

1 cultivating, growing, harvesting, manufacturing, compounding, converting,
2 producing, processing, preparing, testing, analyzing, packaging, repackaging,
3 storing, containing, concealing, injecting, ingesting, inhaling, or otherwise
4 introducing into the human body a controlled substance in violation of this chapter.
5 The term "drug paraphernalia" does not include medicinal cannabis accessories as
6 defined in KRS 218B.010. It includes but is not limited to:

- 7 (a) Kits used, intended for use, or designed for use in planting, propagating,
8 cultivating, growing, or harvesting of any species of plant which is a
9 controlled substance or from which a controlled substance can be derived;
- 10 (b) Kits used, intended for use, or designed for use in manufacturing,
11 compounding, converting, producing, processing, or preparing controlled
12 substances;
- 13 (c) Isomerization devices used, intended for use, or designed for use in increasing
14 the potency of any species of plant which is a controlled substance;
- 15 (d) Except as provided in subsection (7) of this section, testing equipment used,
16 intended for use, or designed for use in analyzing the strength, effectiveness,
17 or purity of controlled substances;
- 18 (e) Scales and balances used, intended for use, or designed for use in weighing or
19 measuring controlled substances;
- 20 (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite,
21 dextrose and lactose, used, intended for use, or designed for use in cutting
22 controlled substances;
- 23 (g) Separation gins and sifters used, intended for use, or designed for use in
24 removing twigs and seeds from, or in otherwise cleaning or refining
25 cannabis[marijuana];
- 26 (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for
27 use, or designed for use in compounding controlled substances;

- 1 (i) Capsules, balloons, envelopes, and other containers used, intended for use, or
2 designed for use in packaging small quantities of controlled substances;
- 3 (j) Containers and other objects used, intended for use, or designed for use in
4 storing or concealing controlled substances;
- 5 (k) Hypodermic syringes, needles, and other objects used, intended for use, or
6 designed for use in parenterally injecting controlled substances into the human
7 body; and
- 8 (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or
9 otherwise introducing cannabis~~[marijuana]~~, cocaine, hashish, or hashish oil
10 into the human body, such as: metal, wooden, acrylic, glass, stone, plastic, or
11 ceramic pipes with or without screens, permanent screens, hashish heads, or
12 punctured metal bowls; water pipes; carburetion tubes and devices; smoking
13 and carburetion masks; roach clips which mean objects used to hold burning
14 material, such as cannabis~~[marijuana]~~ cigarettes, that have become too small
15 or too short to be held in the hand; miniature cocaine spoons, and cocaine
16 vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes;
17 chillums; bongs; ice pipes or chillers.
- 18 (2) **Except for cannabis accessories,** it is unlawful for any person to use, or to possess
19 with intent to use, drug paraphernalia for the purpose of planting, propagating,
20 cultivating, growing, harvesting, manufacturing, compounding, converting,
21 producing, processing, preparing, testing, analyzing, packing, repacking, storing,
22 containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into
23 the human body a controlled substance in violation of this chapter.
- 24 (3) **Except for cannabis accessories,** it is unlawful for any person to deliver, possess
25 with intent to deliver, or manufacture with intent to deliver, drug paraphernalia,
26 knowing, or under circumstances where one reasonably should know, that it will be
27 used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,

1 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject,
2 ingest, inhale, or otherwise introduce into the human body a controlled substance in
3 violation of this chapter.

4 (4) It is unlawful for any person to place in any newspaper, magazine, handbill, or
5 other publication any advertisement, knowing, or under circumstances where one
6 reasonably should know, that the purpose of the advertisement, in whole or in part,
7 is to promote the sale of objects designed or intended for use as drug paraphernalia.

8 (5) (a) This section shall not prohibit a local health department from operating a
9 substance abuse treatment outreach program which allows participants to
10 exchange hypodermic needles and syringes.

11 (b) To operate a substance abuse treatment outreach program under this
12 subsection, the local health department shall have the consent, which may be
13 revoked at any time, of the local board of health and:

14 1. The legislative body of the first or home rule class city in which the
15 program would operate if located in such a city; and

16 2. The legislative body of the county, urban-county government, or
17 consolidated local government in which the program would operate.

18 (c) Items exchanged at the program shall not be deemed drug paraphernalia under
19 this section while located at the program.

20 (6) (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace
21 officer may inquire as to the presence of needles or other sharp objects in the
22 areas to be searched that may cut or puncture the officer and offer to not
23 charge a person with possession of drug paraphernalia if the person declares
24 to the officer the presence of the needle or other sharp object. If, in response
25 to the offer, the person admits to the presence of the needle or other sharp
26 object prior to the search, the person shall not be charged with or prosecuted
27 for possession of drug paraphernalia for the needle or sharp object or for

1 possession of a controlled substance for residual or trace drug amounts
2 present on the needle or sharp object.

3 (b) The exemption under this subsection shall not apply to any other drug
4 paraphernalia that may be present and found during the search or to controlled
5 substances present in other than residual or trace amounts.

6 (7) (a) This section shall not prohibit the retail sale of hypodermic syringes and
7 needles without a prescription in pharmacies.

8 (b) Hypodermic syringe and needle inventory of a pharmacy shall not be deemed
9 drug paraphernalia under this section.

10 (c) 1. Except as provided in subparagraph 2. of this paragraph, narcotic drug
11 testing products utilized in determining whether a controlled substance
12 contains a synthetic opioid or its analogues shall not be deemed drug
13 paraphernalia under this section.

14 2. A narcotic drug testing product that is utilized in conjunction with the
15 importation, manufacture, or selling of fentanyl or a fentanyl analogue
16 in violation of this chapter shall be deemed drug paraphernalia under
17 this section.

18 (d) Notwithstanding any other statute to the contrary, possession of a narcotic
19 drug testing product used in accordance with paragraph (c)1. of this
20 subsection that contains residual or trace amounts of a synthetic opioid or an
21 analogue thereof shall not be prosecuted as possession of a controlled
22 substance under any provision of this chapter.

23 (8) Any person who violates any provision of this section shall be guilty of a Class A
24 misdemeanor.

25 ➔Section 7. KRS 218A.410 is amended to read as follows:

26 (1) The following are subject to forfeiture:

27 (a) Controlled substances listed in Schedule I that are possessed, transferred, sold,

- 1 or offered for sale in violation of this chapter are contraband and shall be
2 seized and summarily forfeited to the state;
- 3 (b) Controlled substances listed in Schedule I, which are seized or come into the
4 possession of the state, the owners of which are unknown, are contraband and
5 shall be summarily forfeited to the state;
- 6 (c) Species of plants from which controlled substances in Schedules I and II may
7 be derived which have been planted or cultivated in violation of this chapter,
8 or of which the owners or cultivators are unknown, or which are wild
9 growths, may be seized and summarily destroyed or forfeited to the state. The
10 failure, upon demand by the law enforcement agency or its authorized agent,
11 of the person in occupancy or in control of land or premises upon which the
12 species of plants are growing or being stored, to produce an appropriate
13 registration, or proof that he or she is the holder thereof, constitutes authority
14 for the seizure and forfeiture of the plants;
- 15 (d) All substances, machinery, or devices used for the manufacture, packaging,
16 repackaging, or marking, and books, papers, and records, and all vehicles
17 owned and used by the seller or distributor for the manufacture, distribution,
18 sale, or transfer of substances in violation of KRS 218A.350 shall be seized
19 and forfeited to the state. Substances manufactured, held, or distributed in
20 violation of KRS 218A.350 shall be deemed contraband;
- 21 (e) All controlled substances which have been manufactured, distributed,
22 dispensed, possessed, being held, or acquired in violation of this chapter;
- 23 (f) All raw materials, products, and equipment of any kind which are used, or
24 intended for use, in manufacturing, compounding, processing, delivering,
25 importing, or exporting any controlled substance in violation of this chapter;
- 26 (g) All property which is used, or intended for use, as a container for property
27 described in paragraph (e) or (f) of this subsection;

1 (h) All conveyances, including aircraft, vehicles, or vessels, which are used, or
2 intended for use, to transport, or in any manner to facilitate the transportation,
3 for the purpose of sale or receipt of property described in paragraph (e) or (f)
4 of this subsection, but:

5 1. No conveyance used by any person as a common carrier in the
6 transaction of business as a common carrier is subject to forfeiture under
7 this section unless it is proven beyond a reasonable doubt that the owner
8 or other person in charge of the conveyance is a consenting party or
9 privy to a violation of this chapter;

10 2. No conveyance is subject to forfeiture under this section by reason of
11 any act or omission established by the owner thereof to have been
12 committed or omitted without his or her knowledge or consent;

13 3. A forfeiture of a conveyance encumbered by a bona fide security
14 interest is subject to the interest of the secured party if he or she neither
15 had knowledge of nor consented to the act or omission; and

16 4. The forfeiture provisions of this paragraph shall not apply to any
17 misdemeanor offense relating to cannabis~~[marijuana]~~ or salvia;

18 (i) All books, records, and research products and materials, including formulas,
19 microfilm, tapes, and data which are used, or intended for use, in violation of
20 this chapter;

21 (j) Everything of value furnished, or intended to be furnished, in exchange for a
22 controlled substance in violation of this chapter, all proceeds, including real
23 and personal property, traceable to the exchange, and all moneys, negotiable
24 instruments, and securities used, or intended to be used, to facilitate any
25 violation of this chapter; except that no property shall be forfeited under this
26 paragraph, to the extent of the interest of an owner, by reason of any act or
27 omission established by him or her to have been committed or omitted

1 without his or her knowledge or consent. It shall be a rebuttable presumption
2 that all moneys, coin, and currency found in close proximity to controlled
3 substances, to drug manufacturing or distributing paraphernalia, or to records
4 of the importation, manufacture, or distribution of controlled substances, are
5 presumed to be forfeitable under this paragraph. The burden of proof shall be
6 upon claimants of personal property to rebut this presumption by clear and
7 convincing evidence. The burden of proof shall be upon the law enforcement
8 agency to prove by clear and convincing evidence that real property is
9 forfeitable under this paragraph; and

10 (k) All real property, including any right, title, and interest in the whole of any lot
11 or tract of land and any appurtenances or improvements, which is used or
12 intended to be used, in any manner or part, to commit, or to facilitate the
13 commission of, a violation of this chapter excluding any misdemeanor offense
14 relating to cannabis~~[marijuana]~~, synthetic drugs, or salvia, except that
15 property shall be forfeited under this paragraph, to the extent of an interest of
16 an owner, by reason of any act or omission established by the Commonwealth
17 to have been committed or omitted with the knowledge or consent of the
18 owner.

19 (2) Title to all property, including all interests in the property, forfeit under this section
20 vests in the Commonwealth on the commission of the act or omission giving rise to
21 forfeiture under this section together with the proceeds of the property after the
22 time. Any property or proceeds subsequently transferred to any person shall be
23 subject to forfeiture and thereafter shall be ordered forfeited, unless the transferee
24 establishes in the forfeiture proceeding that he or she is a subsequent bona fide
25 purchaser for value without actual or constructive notice of the act or omission
26 giving rise to the forfeiture.

27 (3) If any of the property described in this section cannot be located; has been

1 transferred to, sold to, or deposited with a third party; has been placed beyond the
2 jurisdiction of the court; has been substantially diminished in value by any act or
3 omission of the defendant; or, has been commingled with any property which
4 cannot be divided without difficulty, the court shall order the forfeiture of any other
5 property of the defendant up to the value of any property subject to forfeiture under
6 this section.

7 **(4) The forfeiture provisions of this section shall not apply to a personal use quantity**
8 **of cannabis.**

9 ➔Section 8. KRS 533.030 is amended to read as follows:

10 (1) The conditions of probation and conditional discharge shall be such as the court, in
11 its discretion, deems reasonably necessary to ensure that the defendant will lead a
12 law-abiding life or to assist him or her to do so. The court shall provide as an
13 explicit condition of every sentence to probation or conditional discharge that the
14 defendant not commit another offense during the period for which the sentence
15 remains subject to revocation.

16 (2) When imposing a sentence of probation or conditional discharge, the court may, in
17 addition to any other reasonable condition, require that the defendant:

- 18 (a) Avoid injurious or vicious habits;
- 19 (b) Avoid persons or places of disreputable or harmful character;
- 20 (c) Work faithfully at suitable employment as far as possible;
- 21 (d) Undergo available medical or psychiatric treatment and remain in a specific
22 institution as required for that purpose;
- 23 (e) Post a bond, without surety, conditioned on performance of any of the
24 prescribed conditions;
- 25 (f) Support his or her dependents and meet other family responsibilities;
- 26 (g) Pay the cost of the proceeding as set by the court;
- 27 (h) Remain within a specified area;

- 1 (i) Report to the probation officer as directed;
- 2 (j) Permit the probation officer to visit him or her at his or her home or
3 elsewhere;
- 4 (k) Answer all reasonable inquiries by the probation officer and promptly notify
5 the probation officer of any change in address or employment;
- 6 (l) Submit to periodic testing for the use of ~~controlled substances or~~ alcohol or
7 controlled substances other than cannabis, if the defendant's record indicates
8 a controlled substance or alcohol problem, and to pay a reasonable fee, as
9 determined by the court, which fee shall not exceed the actual cost of the test
10 and analysis and shall be paid directly to the agency or agencies responsible
11 for testing and analysis as compensation for the cost of the testing and
12 analysis, as specified by written order of the court, performed under this
13 subsection. For good cause shown, the testing fee may be waived by the court;
- 14 (m) Use an alcohol monitoring device, as defined in KRS 431.068. All costs
15 associated with the device, including administrative and operating costs, shall
16 be paid by the defendant. If the court determines that the defendant is
17 indigent, and a person, county, or other organization has not agreed to pay the
18 costs for the defendant in an attempt to reduce incarceration expenses and
19 increase public safety, the court shall consider other conditions of probation or
20 conditional discharge provided for in this section;
- 21 (n) During all or part of the period of probation or conditional discharge,
22 participate in a global positioning monitoring system program operated by a
23 county pursuant to KRS 67.372 and 67.374 under the same terms and
24 conditions as provided in KRS 431.517; or
- 25 (o) Participate in a specific evidence-based program designed to reduce violence.
- 26 (3) (a) When imposing a sentence of probation or conditional discharge, the court
27 shall order the defendant to make restitution in addition to any other

1 penalty provided for the commission of the offense in a case where a victim
2 of a crime:

3 1. Has suffered monetary damage as a result of the crime due to his or her
4 property having been converted, stolen, or unlawfully obtained, or its
5 value substantially decreased as a result of the crime; ~~or where the~~
6 ~~victim~~

7 2. Suffered actual medical expenses, direct out-of-pocket losses, or loss of
8 earning as a direct result of the crime; ~~or where the victim~~

9 3. Incurred expenses in relocating for the purpose of the victim's safety or
10 the safety of a member of the victim's household; ~~or if~~

11 4. As a direct result of the crime ~~the victim~~ incurred medical expenses
12 that were paid by the Cabinet for Health and Family Services, the Crime
13 Victims Compensation Board, or any other governmental entity; ~~the~~
14 ~~court shall order the defendant to make restitution in addition to any~~
15 ~~other penalty provided for the commission of the offense~~.

16 (b) Payment of restitution to the victim shall have priority over payment of
17 restitution to any government agency. Restitution shall be ordered in the full
18 amount of the damages, unless the damages exceed one hundred thousand
19 dollars (\$100,000) or twice the amount of the gain from the commission of the
20 offense, whichever is greater, in which case the higher of these two (2)
21 amounts shall be awarded.

22 (c) The court may, in lieu of ordering monetary restitution, order the defendant to
23 make restitution by working for or on behalf of the victim. The court shall
24 determine the number of hours of work necessary by applying the then-
25 prevailing federal minimum wage to the total amount of monetary damage
26 caused by or incidental to the commission of the crime. The court may, with
27 the consent of the agency, order the defendant to work as specified in KRS

1 533.070. Any work ordered pursuant to this section shall not be deemed
2 employment for any purpose, nor shall the person performing the work be
3 deemed an employee for any purpose.

4 (d) Where there is more than one (1) defendant or more than one (1) victim,
5 restitution may be apportioned.

6 (e) Restitution shall be subject to the following additional terms and conditions:

7 ~~1.(a)~~ Where property which is unlawfully in the possession of the
8 defendant is in substantially undamaged condition from its condition at
9 the time of the taking, return of the property shall be ordered in lieu of
10 monetary restitution;

11 ~~2.(b)~~ The circuit clerk shall assess an additional fee of five percent (5%)
12 to defray the administrative costs of collection of payments or property.
13 This fee shall be paid by the defendant and shall inure to a trust and
14 agency account which shall not lapse and which shall be used to hire
15 additional deputy clerks and office personnel or increase deputy clerk or
16 office personnel salaries, or combination thereof;

17 ~~3.(c)~~ When a defendant fails to make restitution ordered to be paid
18 through the circuit clerk or a court-authorized program run by the
19 county attorney or the Commonwealth's attorney, the circuit clerk or
20 court-authorized program shall notify the court; and

21 ~~4.(d)~~ An order of restitution shall not preclude the owner of property or
22 the victim who suffered personal physical or mental injury or out-of-
23 pocket loss of earnings or support or other damages from proceeding in
24 a civil action to recover damages from the defendant. A civil verdict
25 shall be reduced by the amount paid under the criminal restitution order.

26 (4) When requiring fees for controlled substances or alcohol tests, or other fees and
27 payments authorized by this section or other statute, except restitution, to be paid by

1 the defendant, the court shall not order the payments to be paid through the circuit
2 clerk.

3 (5) When a defendant is sentenced to probation or conditional discharge, he or she shall
4 be given a written statement explicitly setting forth the conditions under which he
5 or she is being released.

6 (6) When imposing a sentence of probation or conditional discharge, the court, in
7 addition to conditions imposed under this section, may require as a condition of the
8 sentence that the defendant submit to a period of imprisonment in the county jail or
9 to a period of home incarceration at whatever time or intervals, consecutive or
10 nonconsecutive, the court shall determine. The time actually spent in confinement
11 or home incarceration pursuant to this provision shall not exceed twelve (12)
12 months or the maximum term of imprisonment assessed pursuant to KRS Chapter
13 532, whichever is the shorter. Time spent in confinement or home incarceration
14 under this subsection shall be credited against the maximum term of imprisonment
15 assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional
16 discharge is revoked and the defendant is sentenced to imprisonment. Any
17 prohibitions against probation, shock probation, or conditional discharge under
18 KRS 533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor
19 or Class D felony and sentenced to a period of confinement or home incarceration
20 under this section.

21 ➔Section 9. KRS 138.872 is amended to read as follows:

22 (1) A tax is hereby levied on each offender engaging in a taxable activity in this state.
23 The tax shall be paid at the following rates:

24 (a) One thousand dollars (\$1,000) per plant, whether growing or detached from
25 the soil, on each cannabis~~[marijuana]~~ plant with foliation *which exceeds a*
26 *personal use quantity of cannabis as defined in Section 2 of this Act;*

27 (b) Three dollars and fifty cents (\$3.50) on each gram, or portion thereof, of

1 ~~cannabis~~~~[marijuana]~~ which has been detached from the plant on which it
2 grew and which exceeds a personal use quantity of cannabis as defined in
3 Section 2 of this Act;

4 (c) Two hundred dollars (\$200) on each gram, or portion thereof, of controlled
5 substances; and

6 (d) Two thousand dollars (\$2,000) on each fifty (50) dosage units, or portion
7 thereof, of a controlled substance that is not sold by weight.

8 (2) For the purpose of calculating the tax levied pursuant to subsections (1)(b), (1)(c),
9 and (1)(d) of this section, the quantity shall be measured by the weight of the
10 ~~cannabis~~~~[marijuana]~~ or controlled substance, whether pure, impure, or diluted, or
11 by dosage units when a controlled substance is not sold by weight.

12 (3) An offender lawfully engaged in a taxable activity shall be exempt from the tax
13 imposed by this section if the offender is not in violation of any law which
14 authorizes him or her to engage in the activity.

15 ➔Section 10. KRS 218A.276 is amended to read as follows:

16 (1) A court may request the Division of Probation and Parole to perform a risk and
17 needs assessment for any person found guilty of possession of marijuana or
18 cannabis pursuant to KRS 218A.1422, synthetic drugs pursuant to KRS
19 218A.1430, or salvia pursuant to KRS 218A.1451. The assessor shall make a
20 recommendation to the court as to whether treatment is indicated by the assessment,
21 and, if so, the most appropriate treatment or recovery program environment. If
22 treatment is indicated for the person, the court may order him or her to the
23 appropriate treatment or recovery program as indicated by the assessment that will
24 effectively respond to the person's level of risk, criminal risk factors, and individual
25 characteristics as designated by the secretary of the Cabinet for Health and Family
26 Services where a program of treatment or recovery not to exceed ninety (90) days in
27 duration may be prescribed. The person ordered to the designated treatment or

1 recovery program shall present himself or herself for registration and initiation of
2 the treatment or recovery program within five (5) days of the date of sentencing. If,
3 without good cause, the person fails to appear at the designated treatment or
4 recovery program within the specified time, or if any time during the program of
5 treatment or recovery prescribed, the authorized director of the treatment or
6 recovery program finds that the person is unwilling to participate in his or her
7 treatment, the director shall notify the sentencing court. Upon receipt of
8 notification, the court shall cause the person to be brought before it and may
9 continue the order of treatment, or may rescind the treatment order and impose a
10 sentence for the possession offense. Upon discharge of the person from the
11 treatment or recovery program by the secretary of the Cabinet for Health and
12 Family Services, or his or her designee, prior to the expiration of the ninety (90)
13 day period or upon satisfactory completion of ninety (90) days of treatment, the
14 person shall be deemed finally discharged from sentence. The secretary, or his or
15 her designee, shall notify the sentencing court of the date of such discharge from
16 the treatment or recovery program.

17 (2) The secretary of the Cabinet for Health and Family Services, or his or her designee,
18 shall inform each court of the identity and location of the treatment or recovery
19 program to which a person sentenced by that court under this chapter shall be
20 initially ordered.

21 (3) In the case of a person ordered to an inpatient facility for treatment pursuant to this
22 chapter, transportation to the facility shall be provided by order of the court when
23 the court finds the person unable to convey himself or herself to the facility within
24 five (5) days of sentencing by reason of physical infirmity or financial incapability.

25 (4) The sentencing court shall immediately notify the designated treatment or recovery
26 program of the sentence and its effective date.

27 (5) The secretary of the Cabinet for Health and Family Services, or his or her designee,

1 may authorize transfer of the person from the initially designated treatment or
2 recovery program to another treatment or recovery program for therapeutic
3 purposes. The sentencing court shall be notified of termination of treatment by the
4 terminating treatment or recovery program and shall be notified by the secretary or
5 his or her designee of the new treatment or recovery program to which the person
6 was transferred.

7 (6) Responsibility for payment for treatment services rendered to persons pursuant to
8 this section shall be as under the statutes pertaining to payment by patients and
9 others for services rendered by the Cabinet for Health and Family Services, unless
10 the person and the treatment or recovery program shall arrange otherwise.

11 (7) ~~[None of the provisions of]~~ This section shall not be deemed to preclude the court
12 from exercising its usual discretion with regard to ordering probation, presumptive
13 probation, or conditional discharge.

14 (8) In the case of any person who has been convicted of possession of marijuana or
15 cannabis, synthetic drugs, or salvia, the court may set aside and void the conviction
16 upon satisfactory completion of treatment, probation, or other sentence, and issue to
17 the person a certificate to that effect. A conviction voided under this subsection
18 shall not be deemed a first offense for purposes of this chapter or deemed a
19 conviction for purposes of disqualifications or disabilities imposed by law upon
20 conviction of a crime.

21 (9) If the court voids a conviction under this section, the court shall order the sealing of
22 all records in the custody of the court and any records in the custody of any other
23 agency or official, including law enforcement records, except as provided in KRS
24 27A.099. The court shall order the sealing on a form provided by the
25 Administrative Office of the Courts. Every agency with records relating to the
26 arrest, charge, or other matters arising out of the arrest or charge that is ordered to
27 seal records, shall certify to the court within sixty (60) days of the entry of the order

1 that the required sealing action has been completed.

2 (10) After the sealing of the record, the proceedings in the matter shall not be used
3 against the defendant. The court and other agencies shall reply to any inquiry that
4 no record exists on the matter. The person whose record is sealed shall not have to
5 disclose the fact of the record or any matter relating thereto on an application for
6 employment, credit, or other type of application.

7 (11) Inspection of the sealed records may thereafter be permitted by the court or upon a
8 motion by the person who is the subject of the records and only to those persons
9 named in the motion.

10 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO
11 READ AS FOLLOWS:

12 (1) As used in this section:

13 (a) "Cannabis accessory" has the same meaning as in Section 2 of this Act;

14 (b) "Eligible conviction" means:

15 1. Any criminal conviction for a violation of Section 3 of this Act,
16 subsection (2) of Section 4 of this Act, subsection (2) of Section 5 of
17 this Act, or Section 6 of this Act; or

18 2. A conviction for an offense prior to July 14, 1992, for possession,
19 cultivation, or trafficking of marijuana which was punishable by not
20 more than five (5) years' incarceration;

21 (c) "Expungeable conviction" means any eligible conviction for which the
22 available record does not indicate that the offense involved a quantity of
23 marijuana in excess of the personal use quantity of cannabis, or, for a
24 conviction pursuant to Section 6 of this Act, the record does not indicate
25 that the offense involved drug paraphernalia other than cannabis
26 accessories; and

27 (d) "Personal use quantity of cannabis" has the same meaning as in Section 2

1 of this Act.

2 (2) The Administrative Office of the Courts shall establish a process for identifying
3 all eligible convictions and communicating each eligible conviction to the court
4 in which the conviction occurred, and to the office of the Commonwealth's
5 attorney or county attorney that prosecuted the case. All eligible convictions shall
6 be communicated to the office of the Commonwealth's attorney or county
7 attorney that prosecuted the case within ninety (90) days of the effective date of
8 this Act.

9 (3) Within ninety (90) days of the receipt of an eligible conviction, the office of the
10 Commonwealth's attorney or county attorney that prosecuted the case may file
11 with the court in which the conviction occurred an objection to the expungement
12 of any eligible conviction which is not an expungeable conviction.

13 (4) Within two hundred (200) days of the effective date of this Act, for any eligible
14 conviction to which the office of the Commonwealth's attorney or county attorney
15 that prosecuted the case has not filed an objection, the court shall order the
16 judgment vacated, and dismiss with prejudice any charges which are eligible for
17 expungement under this section, and order expunged all records in the custody of
18 the court and any records in the custody of any other agency or official, including
19 law enforcement records.

20 (5) (a) Any person who has an eligible conviction prior to the effective date of this
21 Act and whose records have not been expunged pursuant to subsection (4)
22 of this section may at any time after one (1) year after the effective date of
23 this Act petition the court in which the conviction occurred to expunge all
24 eligible convictions.

25 (b) There shall be no filing fee for a petition pursuant to this subsection.

26 (c) An expungement petition brought under this subsection shall be served
27 upon the offices of the county and Commonwealth's attorneys that

1 prosecuted the case, and the court shall notify the county and
2 Commonwealth's attorneys of an opportunity for a response to the petition.
3 The response shall be filed within ninety (90) days after the filing of the
4 petition.

5 (d) If a response is not filed within ninety (90) days after the filing of the
6 petition, the court shall order the judgment vacated, and dismiss with
7 prejudice any charges which are eligible for expungement under this
8 section.

9 (e) If a response is filed objecting to the expungement of the eligible conviction,
10 the court shall within ninety (90) days of the receipt of the objection
11 schedule a hearing on the petition. If, at the hearing, the court finds that the
12 eligible conviction is an expungeable conviction, the court shall order the
13 judgment vacated, and dismiss with prejudice any charges which are
14 eligible for expungement under this section.

15 (6) (a) Upon entry of an order vacating and expunging a conviction, the original
16 conviction shall be vacated and the record shall be expunged. The court and
17 other agencies shall cause records to be deleted or removed from their
18 computer systems so that the matter shall not appear on official state-
19 performed background checks. The court and other agencies shall reply to
20 any inquiry that no record exists on the matter.

21 (b) The person whose record is expunged shall not have to disclose the fact of
22 the record or any matter relating thereto on an application for employment,
23 credit, or other type of application.

24 (c) If the expunged conviction was a felony, and the person is not prohibited
25 from voting for any other reason, the person's ability to vote shall be
26 restored and the person may register to vote.

27 (7) The Administrative Office of the Courts shall, by December 1, 2027, submit a

- 1 report to the Legislative Research Commission for referral to the Interim Joint
2 Committee on Judiciary, providing data by county on the numbers of eligible
3 convictions identified, objections filed with the court, and the number of
4 expungements granted.
5 (8) This section shall be retroactive.