

1       AN ACT relating to operations in the Office of the Attorney General.

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

3           ➔ SECTION 1. A NEW SECTION OF KRS 15.800 TO 15.876 IS CREATED TO

4       READ AS FOLLOWS:

5       (1) Each employee of the Department of Child Support Services within the  
6       Department of Law, including contract staff, with access to or use of federal tax  
7       information shall submit to a criminal background investigation by means of a  
8       fingerprint check by the Department of Kentucky State Police and the Federal  
9       Bureau of Investigation.

10       (2) The results of the national and state criminal background checks shall be sent to  
11       the Attorney General.

12       (3) The Department of Law may register employees or contract staff in the rap back  
13       system.

14       (4) Any fee charged by the Department of Kentucky State Police or for the Federal  
15       Bureau of Investigation background check or enrollment in the rap back system  
16       shall be an amount no greater than the actual cost of processing the request and  
17       conducting the background check.

18       (5) The Department of Law shall promulgate administrative regulations in  
19       accordance with KRS Chapter 13A to implement this section.

20           ➔ SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO  
21       READ AS FOLLOWS:

22       (1) As used in this section:

23       (a) "State agency" means any department, board, commission, institution,  
24       division, office, organized body, or other functional group that is authorized  
25       by the Constitution of Kentucky or the laws of this Commonwealth to  
26       exercise, perform, or discharge any executive, legislative, judicial, or  
27       administrative jurisdiction, powers, duties, rights, or obligations of state

1                   government; and

2                   (b) "Records" means:

3                   1. Any document or electronically stored information, including writings,  
4                   drawings, graphs, charts, photographs, sound recordings, images, and  
5                   other data or data compilations stored in any medium from which  
6                   information can be obtained either directly or, if necessary, after  
7                   translation by the responding party into a reasonably usable form;

8                   2. Any tangible thing; or

9                   3. Any other document or electronically stored information not covered  
10                   by subparagraph 1. or 2. of this paragraph that is created or received  
11                   by, or coming under the jurisdiction of, any state agency that  
12                   documents the organization, function, policies, decisions, procedures,  
13                   operations, or other activities of the agency.

14                   (2) (a) Each state agency is for all purposes, including in any action brought by the  
15                   Attorney General on behalf of the Commonwealth under the authority of  
16                   this chapter, KRS Chapter 367, or common law, the custodian of its own  
17                   records and shall be in possession, custody, or control of its own records;  
18                   and

19                   (b) Except for records of the office of the Attorney General, the records of each  
20                   state agency are not in the possession, custody, or control of the Attorney  
21                   General.

22                   → SECTION 3. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO  
23                   READ AS FOLLOWS:

24                   (1) Any action brought by the Attorney General, whether under this chapter, KRS  
25                   Chapter 367, common law, or otherwise, shall be commenced within ten (10)  
26                   years after the cause of action accrued unless the statute under which the  
27                   Attorney General is bringing the action provides a different fixed period of time.

(2) For purposes of this section, a cause of action shall be deemed to accrue at the time the injury or violation on which the action is based is first discovered by the Attorney General or in the exercise of reasonable care should have been discovered by the Attorney General, whichever is later.

5 ➔Section 4. KRS 13B.140 is amended to read as follows:

6 (1) (a) Except as provided in KRS 452.005, all final orders of an agency shall be  
7 subject to judicial review in accordance with the provisions of this chapter.

8 (b) A party shall institute an appeal by filing a petition in the Circuit Court of  
9 venue, as provided in the agency's enabling statutes, within thirty (30) days  
10 after the final order of the agency is mailed or delivered by personal service.  
11 If venue for appeal is not stated in the enabling statutes, a party may appeal to  
12 Franklin Circuit Court or the Circuit Court of the county in which the  
13 appealing party resides or operates a place of business.

14 (c) ~~Copies of the petition shall be served by the petitioner upon the agency and  
15 all parties of record.~~ The petition shall include the names and addresses of all  
16 parties to the proceeding and the agency involved, and a statement of the  
17 grounds on which the review is requested. The petition shall be accompanied  
18 by a copy of the final order. Copies of the petition shall be served by the  
19 petitioner upon the agency and all parties of record.

20 (d) The hearing officer shall not be named as a party in any Circuit Court  
21 action seeking judicial review of the final order of any agency, and shall  
22 have no duty to defend his or her decision in Circuit Court or any  
23 subsequent proceeding.

24 (2) A party may file a petition for judicial review only after the party has exhausted all  
25 administrative remedies available within the agency whose action is being  
26 challenged, and within any other agency authorized to exercise administrative  
27 review.

- 1       (3) Within twenty (20) days after the service of the petition, or within further time  
2                    allowed by the court, the agency shall transmit to the reviewing court the original or  
3                    a certified copy of the official record of the proceeding under review. By stipulation  
4                    of all parties to the review proceedings, the record may be shortened. The court may  
5                    require or permit subsequent correction or additions to the official record. If the  
6                    court requests a transcript of proceedings that have not been transcribed, the cost of  
7                    the transcription shall be paid by the party initiating the appeal, unless otherwise  
8                    agreed to by all parties.
- 9       (4) A petition for judicial review shall not automatically stay a final order pending the  
10                    outcome of the review, unless:
  - 11                   (a) An automatic stay is provided by statute upon appeal or at any point in the  
12                    administrative proceedings;
  - 13                   (b) A stay is permitted by the agency and granted upon request; or
  - 14                   (c) A stay is ordered by the Circuit Court of jurisdiction upon petition.
- 15                   ➔Section 5. KRS 216B.115 is amended to read as follows:
- 16       (1) An appeal to the Franklin Circuit Court may be taken from any final decision of the  
17                    cabinet with respect to a certificate-of-need application, a certificate of need, or a  
18                    license, by any party to the proceedings.
- 19       (2) (a) An appeal may be taken by filing a petition for review in the Franklin Circuit  
20                    Court within thirty (30) days after notice of the final decision unless a request  
21                    for reconsideration has been filed, in which case the petition shall be filed  
22                    within fifteen (15) days of the cabinet's decision not to reconsider or notice of  
23                    its decision on reconsideration.
- 24                   (b) The petition shall state with specificity[completely] the grounds upon which  
25                    the review is sought and shall assign all errors relied upon.
- 26                   (c) The petitioner shall serve a copy of the petition to each person who was a  
27                    party to the proceedings.

1        **(d)** Summons shall be issued upon the petition directing the adverse party or  
2        parties to file an answer within twenty (20) days after service of summons.

3        **(e)** The cabinet shall, within thirty (30) days of~~upon~~ being served with the  
4        summons ~~and within thirty (30) days thereafter~~, file a copy of the record,  
5        duly certified by the secretary, with the cost of the record to be taxed as costs  
6        upon appeal. In lieu of filing of the record, an abstract of the record~~thereof~~  
7        may be filed if all parties to the appeal agree.

8        **(3) In any appeal to the Franklin Circuit Court under this section, neither the**  
9        **Attorney General, nor the Office of Administrative Hearings within the**  
10       **Department of Law, nor the hearing officer shall be named as a party to the**  
11       **action and shall have no duty to defend the final order of the cabinet in the**  
12       **Circuit Court or any subsequent proceedings.**

13       ➔Section 6. KRS 322A.030 is amended to read as follows:

14       (1) The board shall meet at least once each calendar year and at other times deemed  
15       necessary by the chair or a quorum of the board upon being given ten (10) days' notice.

17       (2) A roster showing the names and places of business of all registered professional  
18       geologists shall be published by the secretary of the board each year. Copies of this  
19       roster shall be made available to each person registered, placed on file with the  
20       secretary of the board, and furnished to the public upon request.

21       (3) The board shall pass upon the qualifications of applicants for registration.

22       (4) The board shall require from applicants for registration evidence of their  
23       qualifications and shall judge each applicant on evidence of the applicant's  
24       professional competency and integrity in accordance with administrative  
25       regulations promulgated by the board.

26       (5) The board may promulgate administrative regulations consistent with the provisions  
27       of this chapter appropriate and necessary to the conduct of its responsibilities and

1                   duties.

2   (6) The board shall promulgate by administrative regulation a code of professional  
3                   conduct, a copy of which shall be distributed to every registered geologist. Mailing  
4                   of a copy of this code to persons listed in the roster maintained under subsection (2)  
5                   of this section shall constitute due notice to all registrants. The board may revise  
6                   and amend the code of ethics from time to time, subject to the consent of the  
7                   majority of the registrants, and shall notify each registrant in writing of any  
8                   revisions or amendments.

9   (7) The board may take appropriate disciplinary action as provided~~for~~ in KRS  
10                  322A.100, but only after written notice has been given to the person against whom  
11                  *action may be taken*~~concerned~~ and the person is afforded an opportunity for a  
12                  hearing to be conducted in accordance with KRS Chapter 13B.

13   (8) Any person or organization may prefer charges of fraud, deceit, gross negligence,  
14                  or misconduct against any registrant. The charges shall be in writing, shall be sworn  
15                  to by the person or officer of the organization making them, and shall then be filed  
16                  with the board.

17   (9) Any Kentucky resident~~who feels~~ aggrieved by any final order of the board may  
18                  appeal to the Circuit Court of the county where the person resides or where the  
19                  person has his or her principal office in accordance with KRS Chapter 13B. Any  
20                  out-of-state resident~~who feels~~ aggrieved by any final order of the board may  
21                  appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.

22   (10) ~~The Attorney General or any assistants designated by him or her shall act as legal  
23                  advisers to the board and render legal assistance as the board may from time to time  
24                  require.~~ The board may employ private counsel at its discretion. The cost of private  
25                  counsel shall be paid exclusively from funds of the board.

26   (11) The board shall establish and maintain necessary offices within this  
27                  Commonwealth, employ personnel as necessary, and prescribe their duties and

1 compensation.

2 (12) For the purposes of enforcing the provisions of this chapter, investigating  
3 complaints or suspected violations of this chapter, and notifying proper law  
4 enforcement authorities, the board may:

5 (a) Administer oaths;  
6 (b) Receive evidence;  
7 (c) Interview persons;  
8 (d) Issue subpoenas; and  
9 (e) Require production of books, papers, documents, or other evidence.

10 ➔Section 7. KRS 367.160 is amended to read as follows:

11 (1) **(a)** All departments, agencies, officers, and employees of the Commonwealth  
12 shall fully cooperate with the Attorney General in carrying out the functions  
13 of KRS 367.120 to 367.300.

14 **(b) This section and the other provisions of KRS 367.110 to 367.300 shall not**  
15 **be interpreted or construed to abrogate or otherwise conflict with any**  
16 **provision of Section 2 of this Act.**

17 (2) The persons designated by the Attorney General as utility consumer intervenors  
18 shall have the same access to material evidence and information of the Public  
19 Service Commission relating to any case before it as other parties to the case.

20 (3) The persons designated by the Attorney General as health insurance consumer  
21 intervenors shall have the same access to material evidence and information of the  
22 commissioner of the Department of Insurance relating to any health insurance rate  
23 hearings before it as other parties to the hearing.

24 ➔Section 8. KRS 403.213 is amended to read as follows:

25 (1) The Kentucky child support guidelines may be used by the parent, custodian, or  
26 agency substantially contributing to the support of the child as the basis for periodic  
27 updates of child support obligations and for modification of child support orders for

1       health care. ~~The provisions of~~ Any decree respecting child support may be  
2       modified only as to installments accruing subsequent to the filing of the motion for  
3       modification and only upon a showing of a material change in circumstances that is  
4       substantial and continuing.

5       (2) Application of the Kentucky child support guidelines to the circumstances of the  
6       parties at the time of the filing of a motion or petition for modification of the child  
7       support order which results in equal to or greater than a fifteen percent (15%)  
8       change in the amount of support due per month shall be rebuttably presumed to be a  
9       material change in circumstances. Application which results in less than a fifteen  
10      percent (15%) change in the amount of support due per month shall be rebuttably  
11      presumed not to be a material change in circumstances. ~~For the one (1) year period~~  
12      ~~immediately following enactment of this statute, the presumption of material~~  
13      ~~change shall be a twenty five percent (25%) change in the amount of child support~~  
14      ~~due rather than the fifteen percent (15%) stated above~~.

15      (3) Unless otherwise agreed in writing or expressly provided in the decree, ~~provisions~~  
16      ~~for~~ the support of a child shall be terminated by emancipation of the child unless  
17      the child is a high school student when he or she reaches the age of eighteen (18).  
18      In cases where the child becomes emancipated because of age, but not due to  
19      marriage, while still a high school student, the court-ordered support shall continue  
20      while the child is a high school student, but not beyond completion of the school  
21      year during which the child reaches the age of nineteen (19) years. ~~Provisions for~~  
22      The support of the child shall not be terminated by the death of a parent obligated to  
23      support the child. If a parent obligated to pay support dies, the amount of support  
24      may be modified, revoked, or commuted to a lump-sum payment, to the extent just  
25      and appropriate in the circumstances. Emancipation of the child shall not terminate  
26      the obligation of child support arrearages that accrued while the child was an  
27      unemancipated minor.

1       (4) The child support guidelines table shall be reviewed at least once every four (4)  
2       years by a commission consisting of the following persons:

3       (a) ~~The secretary of the Cabinet for Health and Family Services or a supervisory~~  
4       staff person designated by him;

5       (b) Two (2) members of the Kentucky Bar Association who have at least six (6)  
6       consecutive years' experience and are presently practicing domestic relations  
7       cases, one (1) member from a metropolitan or large urban area and one (1)  
8       member from a less populated area;

9       (c) Two (2) Circuit Judges appointed by the Chief Justice of the Kentucky  
10       Supreme Court, one (1) from a metropolitan or large urban area, and one (1)  
11       from a less populated area;

12       (d) One (1) District Judge appointed by the Chief Justice of the Kentucky  
13       Supreme Court;

14       (e) Two (2) county attorneys appointed by the president of the County  
15       Attorneys Association, one (1) from a metropolitan or large urban area and  
16       one (1) from a less populated area;

17       (f) The Attorney General or his or her designee, who shall be an attorney  
18       from his or her office;

19       (g) One (1) person who is a custodial parent;

20       (h) One (1) person who is a noncustodial parent;

21       (i) One (1) person who is a parent with split custody; and

22       (j) One (1) child advocate.

23       The members designated in paragraphs (f) to (j) of this subsection shall be  
24       appointed by the Governor from a list of three (3) names for each category  
25       submitted by the Attorney General~~Cabinet for Health and Family Services~~. If the  
26       status of one (1) of these members changes, the member shall be replaced through  
27       appointment by the Governor from a list of three (3) names submitted by the

1        *Attorney General*[cabinet].

2        (5) The commission shall make a recommendation to the Kentucky General Assembly  
3            to ensure that the child support guidelines table results in a determination of  
4            appropriate child support amounts.