

1 AN ACT relating to compliance with state and federal law.

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

3 ➔Section 1. KRS 65.133 is amended to read as follows:

- 4 (1) Each local law enforcement agency and the Department of Kentucky State Police  
5 shall each have the responsibility for enforcing the provisions of sex offender  
6 registration laws ***and cooperating with all federal law enforcement agencies for***  
7 ***the enforcement of any state or federal law.***
- 8 (2) Law enforcement agencies may enter into written agreements for joint investigation  
9 and enforcement of violations of ***all laws, including*** sex offender registration laws.  
10 These agreements may include other local law enforcement agencies and may  
11 include the Department of Kentucky State Police.

12 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO  
13 READ AS FOLLOWS:

14 ***(1) As used in this section:***

15 ***(a) "Illegal alien" means any person, not a citizen or national of the United***  
16 ***States, who is in the United States unlawfully and:***

17 ***1. Whose most recent entry into the United States was without***  
18 ***inspection; or***

19 ***2. Whose most recent admission into the United States was as a***  
20 ***nonimmigrant and whose period of authorized stay as a***  
21 ***nonimmigrant expired;***

22 ***(b) "Law enforcement officer" has the same meaning as in KRS 15.310;***

23 ***(c) "Local government" means any county, city, charter county, urban-county,***  
24 ***consolidated local, or unified local government;***

25 ***(d) "Local government official" means any elected or appointed official or any***  
26 ***law enforcement officer serving the local government;***

27 ***(e) "Sanctuary" means any local government having a sanctuary policy, as***

- 1                   determined by an administrative hearing; and
- 2           (f) "Sanctuary policy" means any local government's order or ordinance,
- 3                   enacted or followed that:
- 4                   1. Limits in any way or prohibits any local government official or person
- 5                           employed by the local government from:
- 6                           a. Communicating or cooperating with federal agencies or officials
- 7                                   to verify or report the immigration status of any illegal alien
- 8                                   within the local government's geographical boundaries;
- 9                           b. Undertaking any law enforcement action for the purpose of
- 10                                   detecting the presence of illegal aliens or verifying immigration
- 11                                   status, including:
- 12                                   i. Entering into agreements under 8 U.S.C. sec. 1357 with
- 13   United States Immigration and Customs Enforcement; and
- 14                                   ii. Questioning any person about his or her immigration
- 15   status;
- 16                           c. Questioning, arresting, or detaining any person for violations of
- 17                                   federal criminal immigration laws, regardless of whether
- 18                                   immigration status is an element of the crime or whether 8
- 19                                   U.S.C. sec. 1324(c) is being enforced;
- 20                           d. Using local government resources or personnel for the purpose
- 21                                   of detecting or apprehending illegal aliens; or
- 22                           e. Doing any of the following with respect to information relating
- 23                                   to the immigration status, lawful or unlawful, of any person
- 24                                   under a lawful detention or under arrest, including information
- 25                                   regarding the person's place of birth:
- 26                                   i. Sending the information to or requesting or receiving the
- 27   information from United States Citizenship and

1 Immigration Services, United States Immigration and  
2 Customs Enforcement, or any federal agency;

3 ii. Maintaining the information; or

4 iii. Exchanging the information with another local  
5 government or a federal or state governmental entity; or

6 2. Grants to illegal aliens the right to lawful presence or status within the  
7 local government's geographical boundaries in violation of federal  
8 law.

9 (2) No local government shall enact or adopt any sanctuary policy or take any other  
10 action under which the local government prohibits or discourages the  
11 enforcement of immigration laws. Any local government that does so shall be  
12 ineligible for any moneys administered by any state agency or department until  
13 the sanctuary policy is repealed or is no longer in effect. If any local government  
14 becomes eligible after being ineligible, the local government shall not receive  
15 funds to replace funds lost due to ineligibility.

16 (3) Upon the complaint of any state resident regarding a local government or prior to  
17 the provision of funds or awarding of any grants to a local government, any  
18 member of the General Assembly may request that the secretary of the Justice  
19 and Public Safety Cabinet hold an administrative hearing pursuant to subsection  
20 (4) of this section.

21 (4) (a) Upon request by a member of the General Assembly, the secretary of the  
22 Justice and Public Safety Cabinet shall hold an administrative hearing,  
23 open to the public, to determine whether the local government has current  
24 policies in contravention of this section.

25 (b) Notwithstanding any exemptions in KRS 13B.020, the administrative  
26 hearing shall be governed by KRS Chapter 13B.

27 (c) A copy of the final order shall be transmitted to the Governor of the

1           Commonwealth of Kentucky, the member of the General Assembly  
2           requesting the hearing, the Speaker of the House of Representatives, and  
3           the President of the Senate. The secretary of the Justice and Public Safety  
4           Cabinet shall make the final order publicly available and shall publish it in  
5           a conspicuous place on its Web site.

6           (5) The Justice and Public Safety Cabinet shall publish a list of all local  
7           governments determined to be sanctuaries.

8           (6) The governing body, sheriff, or chief of police of each local government shall  
9           provide each law enforcement officer with written notice of their duty to  
10           cooperate with state and federal agencies and officials on matters pertaining to  
11           enforcement of state and federal laws governing immigration.

12           (7) No later than January 1, 2023, each state or local law enforcement agency shall:  
13           (a) Formalize in writing any unwritten, informal policies relating to the  
14           enforcement of immigration laws; and  
15           (b) Update the agency's policies to be consistent with this chapter, to require  
16           each law enforcement officer or other employee of the law enforcement  
17           agency to fully comply with this chapter, and to prohibit a law enforcement  
18           officer or other employee of the law enforcement agency from preventing  
19           law enforcement personnel from fully complying with this chapter.

20           ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO  
21 READ AS FOLLOWS:

22           (1) As used in this section:

23           (a) "Institution of higher education" has the same meaning as in KRS 341.067;  
24           and

25           (b) "Illegal alien" has the same meaning as in Section 2 of this Act.

26           (2) No institution of higher education shall enroll, employ, or contract with any  
27           illegal alien.

- 1 (3) Every institution of higher education located in, transacting business in, or  
2 contracting to supply services or goods in this Commonwealth shall keep records  
3 of at least one (1) of the following for each student enrolled at the institution of  
4 higher education, employee employed by the institution of higher education, and  
5 person contracting with the institution of higher education:
- 6 (a) In the case of a natural-born United States citizen born in the United States,  
7 a certified or original birth certificate issued by a state, territory, or  
8 possession of the United States;
- 9 (b) In the case of a natural-born United States citizen born outside the United  
10 States, a United States Consular Report of Birth Abroad;
- 11 (c) In the case of a naturalized United States citizen, a Certificate of  
12 Naturalization issued by the United States Citizenship and Immigration  
13 Services; or
- 14 (d) In the case of a foreign national, an unexpired visa authorizing the foreign  
15 national to study or work in the United States or a United States Permanent  
16 Resident Card.
- 17 (4) (a) Any state resident may contact any member of the General Assembly to  
18 request that the member refer an institution of higher education to the  
19 Justice and Public Safety Cabinet for an administrative hearing in  
20 accordance with subsection (5) of this section.
- 21 (b) Upon receipt of a request by a state resident, the member of the General  
22 Assembly may choose whether or not to refer the institution of higher  
23 education to the Justice and Public Safety Cabinet for an administrative  
24 hearing in accordance with subsection (5) of this section.
- 25 (5) (a) Upon request by a member of the General Assembly the secretary of the  
26 Justice and Public Safety Cabinet shall hold an administrative hearing,  
27 open to the public, to determine whether the institution of higher education

- 1           has enrolled, employed, or contracted with any illegal alien.
- 2           (b) Notwithstanding any exemptions in KRS 13B.020, the administrative  
3           hearing shall be governed by KRS Chapter 13B.
- 4           (c) The final order shall contain a determination of:
- 5                 1. Whether or not the institution of higher education enrolled, employed,  
6                 or contracted with any illegal alien;
- 7                 2. If the institution of higher education did enroll, employ, or contract  
8                 with an illegal alien, whether the enrollment, employment, or contract  
9                 has ended or is ongoing; and
- 10                3. a. If the enrollment, employment, or contract has ended, how many  
11                days the institution of higher education enrolled, employed, or  
12                contracted with the illegal alien; or
- 13                b. If the enrollment, employment, or contract is ongoing, the date  
14                that the enrollment, employment, or contract started.
- 15           (d) A copy of the final order shall be transmitted to the Governor of the  
16           Commonwealth of Kentucky, the member of the General Assembly  
17           requesting the hearing, the Speaker of the House of Representatives, and  
18           the President of the Senate. The secretary of the Justice and Public Safety  
19           Cabinet shall make the final order publicly available and shall publish it in  
20           a conspicuous place on its Web site.
- 21           (e) If the final order determines that the institution of higher education  
22           enrolled, employed, or contracted with any illegal alien, the secretary of the  
23           Justice and Public Safety Cabinet shall notify the secretary of the Finance  
24           and Administration Cabinet in writing and request that the Finance and  
25           Administration Cabinet withhold or intercept from the governing board of  
26           the institution of higher education a portion of any appropriated state funds  
27           not yet disbursed to the institution of higher education.

1 (f) Upon receipt of the request, the secretary of the Finance and  
2 Administration Cabinet shall remit payment of the portion to the general  
3 fund from the appropriation to the institution of higher education.

4 (g) The portion shall be equal to the total amount of state funds appropriated to  
5 the institution of higher education in the fiscal year the final order is issued  
6 multiplied by the number of days the institution of higher education  
7 enrolled, employed, or contracted with the illegal alien divided by three  
8 hundred sixty-five (365).

9 (h) If the final order determined that the enrollment, employment, or  
10 contracting was ongoing:

11 1. The number of days the institution of higher education enrolled,  
12 employed, or contracted with the illegal alien shall be deemed to be the  
13 number of days from the date that the enrollment, employment, or  
14 contracting started to the date of the request from the secretary of the  
15 Justice and Public Safety Cabinet; and

16 2. The secretary of the Finance and Administration Cabinet shall  
17 withhold all allotments of the institution of higher education's  
18 appropriation and instead remit those allotments to the general fund  
19 until the secretary of the Justice and Public Safety Cabinet certifies  
20 that the institution of higher education is no longer enrolling,  
21 employing, or contracting with any illegal alien.

22 (6) The Justice and Public Safety Cabinet shall publish a list of all institutions of  
23 higher education that have been determined to have enrolled, employed, or  
24 contracted with illegal aliens.

25 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO  
26 READ AS FOLLOWS:

27 No person shall be considered a Kentucky resident for the purpose of receiving in-state

1 tuition rates unless he or she is:

2 (1) A citizen of the United States;

3 (2) A lawful permanent resident of the United States registered with the United States  
4 Citizenship and Immigration Services; or

5 (3) A nonimmigrant, lawfully present in the United States who is authorized by the  
6 United States Immigration and Customs Enforcement to study at an institution of  
7 higher education as defined in KRS 341.067.

8 ➔Section 5. Section 3 of this Act takes effect on January 1, 2023.