

1 AN ACT relating to hate crimes.

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

3 →Section 1. KRS 15.420 is amended to read as follows:

4 As used in KRS 15.410 to 15.510, unless the context otherwise requires:

5 (1) "Cabinet" means the Justice and Public Safety Cabinet;

6 **(2) "Hate crime" means bias-related crime, victimization, or intimidation that is a**  
 7 **result of or reasonably related to race, color, ethnicity, national origin, religion,**  
 8 **mental or physical disability, gender identity or expression, or sexual orientation;**

9 ~~(3)~~~~(2)~~ (a) "Police officer" means:

10 1. A local officer, limited to:

11 a. A full-time:

12 i. Member of a lawfully organized police department of county,  
 13 urban-county, or city government; or

14 ii. Sheriff or full-time deputy sheriff, including any sheriff  
 15 providing court security or appointed under KRS 70.030; or

16 b. A school resource officer as defined in KRS 158.441; and

17 2. A state officer, limited to:

18 a. A public university police officer;

19 b. A Kentucky state trooper;

20 c. A Kentucky State Police arson investigator;

21 d. A Kentucky State Police hazardous device investigator;

22 e. A Kentucky State Police legislative security specialist;

23 f. A Kentucky vehicle enforcement officer;

24 g. A Kentucky Horse Park mounted patrol officer, subject to KRS  
 25 15.460(1)(f);

26 h. A Kentucky state park ranger, subject to KRS 15.460(1)(f);

27 i. An agriculture investigator;

- 1                   j.    A charitable gaming investigator;
- 2                   k.    An alcoholic beverage control investigator;
- 3                   l.    An insurance fraud investigator;
- 4                   m.    An Attorney General investigator; and
- 5                   n.    A Kentucky Department of Fish and Wildlife Resources
- 6                         conservation officer, subject to KRS 15.460(1)(e);

7                   who is responsible for the prevention and detection of crime and the

8                   enforcement of the general criminal laws of the state;

- 9           (b) "Police officer" does not include any sheriff who earns the maximum
- 10           constitutional salary for this office, any special deputy sheriff appointed under
- 11           KRS 70.045, any constable, deputy constable, district detective, deputy district
- 12           detective, special local peace officer, auxiliary police officer, or any other
- 13           peace officer not specifically authorized in KRS 15.410 to 15.510;

14   ~~(4)~~~~(3)~~ "Police department" means the employer of a police officer;

15   ~~(5)~~~~(4)~~ "Retirement plan" means a defined benefit plan consisting of required

16           employer contributions pursuant to KRS 61.565, 61.702, or any other provision of

17           law;

18   ~~(6)~~~~(5)~~ "Unit of government" means any city, county, combination of cities and

19           counties, public university, state agency, local school district, or county sheriff's

20           office of the Commonwealth; and

21   ~~(7)~~~~(6)~~ "Validated job task analysis" means the core job description that describes the

22           minimum entry level requirements, qualifications, and training requirements for

23           peace officers in the Commonwealth, and that is based upon an actual survey and

24           study of police officer duties and responsibilities conducted by an entity recognized

25           by the council as being competent to conduct such a study.

26   ➔Section 2. KRS 15.440 is amended to read as follows:

- 27   (1) Each unit of government that meets the following requirements shall be eligible to

1 share in the distribution of funds from the Law Enforcement Foundation Program  
2 fund:

3 (a) Employs one (1) or more police officers;

4 (b) Pays every police officer at least the minimum federal wage;

5 (c) Requires all police officers to have, at a minimum, a high school degree, or its  
6 equivalent as determined by the council, except that each police officer  
7 employed prior to the date on which the officer's police department was  
8 included as a participant under KRS 15.410 to 15.510 shall be deemed to have  
9 met the requirements of this subsection;

10 (d) 1. Requires all police officers to successfully complete a basic training  
11 course of nine hundred twenty-eight (928) hours' duration within one (1)  
12 year of the date of employment at a school certified or recognized by the  
13 council, which may provide a different number of hours of instruction as  
14 established in this paragraph, except that each police officer employed  
15 prior to the date on which the officer's police department was included  
16 as a participant under KRS 15.410 to 15.510 shall be deemed to have  
17 met the requirements of this subsection.

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

26 3. If the council sets an exact number of hours different from nine hundred  
27 twenty-eight (928) in an administrative regulation as provided by this

1 paragraph, it shall not further change the number of hours required for  
2 basic training without promulgating administrative regulations in  
3 accordance with the provisions of KRS Chapter 13A.

4 4. Nothing in this paragraph shall be interpreted to prevent the council,  
5 pursuant to its authority under KRS 15.330, from approving training  
6 schools with a curriculum requiring attendance of a number of hours that  
7 exceeds nine hundred twenty-eight (928) hours or the number of hours  
8 established in an administrative regulation as provided by subparagraphs  
9 2. and 3. of this paragraph. However, the training programs and schools  
10 for the basic training of law enforcement personnel conducted by the  
11 department pursuant to KRS 15A.070 shall not contain a curriculum that  
12 requires attendance of a number of hours for basic training that is  
13 different from nine hundred twenty-eight (928) hours or the number of  
14 hours established in an administrative regulation promulgated by the  
15 council pursuant to the provisions of KRS Chapter 13A as provided by  
16 subparagraphs 2. and 3. of this paragraph.

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

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

23 b. Basic training completed in another state.

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

- 1 a. Completion of eight hundred forty-eight (848) hours of training at
- 2 a school established pursuant to KRS 15A.070;
- 3 b. A minimum of fifteen (15) years of experience as a certified law
- 4 enforcement instructor at a school established pursuant to KRS
- 5 15A.070;
- 6 c. Completion of an average of forty (40) hours of Kentucky Law
- 7 Enforcement Council approved in-service training annually from
- 8 January 1, 1997, through January 1, 2020;
- 9 d. Three (3) years of active, full-time service as a:
  - 10 i. City, county, urban-county, charter county, consolidated
  - 11 local, or unified local government police officer;
  - 12 ii. Sheriff's deputy, excluding special deputies appointed under
  - 13 KRS 70.045;
  - 14 iii. Department of Kentucky State Police officer; or
  - 15 iv. Kentucky Department of Fish and Wildlife Resources
  - 16 conservation officer exercising peace officer powers under
  - 17 KRS 150.090; and
- 18 e. Completion of the:
  - 19 i. Twenty-four (24) hour legal update Penal Code course;
  - 20 ii. Sixteen (16) hour legal update constitutional procedure
  - 21 course; and
  - 22 iii. Forty (40) hour basic officer skills course within one (1) year
  - 23 prior to applying for certification;
- 24 (e) Requires all police officers to successfully complete each calendar year an in-
- 25 service training course, appropriate to the officer's rank and responsibility and
- 26 the size and location of the officer's police department, of forty (40) hours'
- 27 duration, at a school certified or recognized by the council which may include

1 a four (4) hour course which meets the requirements of paragraph (j) of this  
2 subsection. This in-service training requirement shall be waived for the period  
3 of time that a peace officer is serving on active duty in the United States  
4 Armed Forces. This waiver shall be retroactive for peace officers from the  
5 date of September 11, 2001;

6 (f) Complies with all provisions of law applicable to police officers or police  
7 departments, including transmission of data to the centralized criminal history  
8 record information system as required by KRS 17.150 and transmission of  
9 reports as required by KRS 15.391;

10 (g) Complies with all rules and regulations, appropriate to the size and location of  
11 the police department issued by the cabinet to facilitate the administration of  
12 the fund and further the purposes of KRS 15.410 to 15.510;

13 (h) Possesses a written policy and procedures manual related to domestic violence  
14 for law enforcement agencies that has been approved by the cabinet. The  
15 policy shall comply with the provisions of KRS 403.715 to 403.785. The  
16 policy shall include a purpose statement; definitions; supervisory  
17 responsibilities; procedures for twenty-four (24) hour access to protective  
18 orders; procedures for enforcement of court orders or relief when protective  
19 orders are violated; procedures for timely and contemporaneous reporting of  
20 adult abuse and domestic violence to the Cabinet for Health and Family  
21 Services, Department for Community Based Services; victim rights,  
22 assistance, and service responsibilities; and duties related to timely completion  
23 of records;

24 (i) Possesses by January 1, 2017, a written policy and procedures manual related  
25 to sexual assault examinations that meets the standards provided by, and has  
26 been approved by, the cabinet, and which includes:

27 1. A requirement that evidence collected as a result of an examination

- 1 performed under KRS 216B.400 be taken into custody within five (5)
- 2 days of notice from the collecting facility that the evidence is available
- 3 for retrieval;
- 4 2. A requirement that evidence received from a collecting facility relating
- 5 to an incident which occurred outside the jurisdiction of the police
- 6 department be transmitted to a police department with jurisdiction
- 7 within ten (10) days of its receipt by the police department;
- 8 3. A requirement that all evidence retrieved from a collecting facility under
- 9 this paragraph be transmitted to the Department of Kentucky State
- 10 Police forensic laboratory within thirty (30) days of its receipt by the
- 11 police department;
- 12 4. A requirement that a suspect standard, if available, be transmitted to the
- 13 Department of Kentucky State Police forensic laboratory with the
- 14 evidence received from a collecting facility; and
- 15 5. A process for notifying the victim from whom the evidence was
- 16 collected of the progress of the testing, whether the testing resulted in a
- 17 match to other DNA samples, and if the evidence is to be destroyed. The
- 18 policy may include provisions for delaying notice until a suspect is
- 19 apprehended or the office of the Commonwealth's attorney consents to
- 20 the notification, but shall not automatically require the disclosure of the
- 21 identity of any person to whom the evidence matched; ~~and~~

22 **(j) Possesses by January 1, 2023, a written policy and procedures manual**  
 23 **related to hate crimes which includes:**

- 24 **1. A requirement that crimes identified, investigated, and reported as**  
 25 **hate crimes be submitted through the Federal Bureau of**  
 26 **Investigation's Uniform Crime Reporting Program;**
- 27 **2. A standardized system of collecting, analyzing, and reporting the**

- 1                    *incidence of a hate crime;*  
 2                    *3. The establishment of a unit specialized in identifying, investigating,*  
 3                    *and reporting hate crimes; and*  
 4                    *4. A requirement for engaging in community related functions related to*  
 5                    *hate crime prevention and education such as establishing a liaison*  
 6                    *with formal community-based organizations or leaders and*  
 7                    *conducting public meetings or educational forums on the impact of*  
 8                    *hate crimes; and*

9                    ~~(k)~~(j) Requires all police officers to successfully complete by December 31,  
 10                    2022, and every two (2) years thereafter, a training course certified by the  
 11                    council of not less than four (4) hours in emergency vehicle operation.

12                    (2) A unit of government which meets the criteria of this section shall be eligible to  
 13                    continue sharing in the distribution of funds from the Law Enforcement Foundation  
 14                    Program fund only if the police department of the unit of government remains in  
 15                    compliance with the requirements of this section.

16                    (3) Deputies employed by a sheriff's office shall be eligible to participate in the  
 17                    distribution of funds from the Law Enforcement Foundation Program fund  
 18                    regardless of participation by the sheriff.

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

23                    ➔Section 3. KRS 15.334 is amended to read as follows:

24                    (1) The Kentucky Law Enforcement Council shall approve mandatory training subjects  
 25                    to be taught to all students attending a law enforcement basic training course that  
 26                    include but are not limited to:

27                    (a) Abuse, neglect, and exploitation of the elderly and other crimes against the



- 1 elderly, including the use of multidisciplinary teams in the investigation and  
2 prosecution of crimes against the elderly;
- 3 (b) The dynamics of domestic violence, pediatric abusive head trauma, as defined  
4 in KRS 620.020, child physical and sexual abuse, and rape; child  
5 development; the effects of abuse and crime on adult and child victims,  
6 including the impact of abuse and violence on child development; legal  
7 remedies for protection; lethality and risk issues; profiles of offenders and  
8 offender treatment; model protocols for addressing domestic violence, rape,  
9 pediatric abusive head trauma, as defined in KRS 620.020, and child abuse;  
10 available community resources and victim services; and reporting  
11 requirements. This training shall be developed in consultation with legal,  
12 victim services, victim advocacy, and mental health professionals with  
13 expertise in domestic violence, child abuse, and rape. Training in recognizing  
14 pediatric abusive head trauma may be designed in collaboration with  
15 organizations and agencies that specialize in the prevention and recognition of  
16 pediatric abusive head trauma approved by the secretary of the Cabinet for  
17 Health and Family Services;
- 18 (c) Human immunodeficiency virus infection and acquired immunodeficiency  
19 virus syndrome;
- 20 (d) Identification and investigation of, responding to, and reporting bias-related  
21 crime, victimization, or intimidation that is a result of or reasonably related to  
22 race, color, ethnicity, ~~religion, sex, or~~ national origin, religion, mental or  
23 physical disability, gender identity or expression, or sexual orientation;
- 24 (e) The characteristics and dynamics of human trafficking, state and federal laws  
25 relating to human trafficking, the investigation of cases involving human  
26 trafficking, including but not limited to screening for human trafficking, and  
27 resources for assistance to the victims of human trafficking;

- 1 (f) Beginning January 1, 2017, the council shall require that a law enforcement  
2 basic training course include at least eight (8) hours of training relevant to  
3 sexual assault; and
- 4 (g) Education on female genital mutilation as defined in KRS 508.125, including  
5 the risk factors associated with female genital mutilation, the criminal  
6 penalties for committing female genital mutilation, and the psychological and  
7 health effects on a victim of female genital mutilation.
- 8 (2) (a) The council shall develop and approve mandatory in-service training courses  
9 to be presented to all certified peace officers. The council may promulgate  
10 administrative regulations in accordance with KRS Chapter 13A setting forth  
11 the deadlines by which all certified peace officers shall attend the mandatory  
12 in-service training courses.
- 13 (b) Beginning January 1, 2017, the council shall establish a forty (40) hour sexual  
14 assault investigation training course. After January 1, 2019, agencies shall  
15 maintain officers on staff who have completed the forty (40) hour sexual  
16 assault investigation training course in accordance with the following:
- 17 1. Agencies with more than ten (10) but fewer than twenty-one (21) full-  
18 time officers shall maintain one (1) officer who has completed the forty  
19 (40) hour sexual assault investigation training course;
  - 20 2. Agencies with twenty-one (21) or more but fewer than fifty-one (51)  
21 full-time officers shall maintain at least two (2) officers who have  
22 completed the forty (40) hour sexual assault investigation training  
23 course; and
  - 24 3. Agencies with fifty-one (51) or more full-time officers shall maintain at  
25 least four (4) officers who have completed the sexual assault  
26 investigation course.
- 27 (c) An agency shall not make an officer directly responsible for the investigation

1 or processing of sexual assault offenses unless that officer has completed the  
2 forty (40) hour sexual assault investigation training course.

3 (d) The council may, upon application by any agency, grant an exemption from  
4 the training requirements set forth in paragraph (b) of this subsection if that  
5 agency, by limitations arising from its scope of authority, does not conduct  
6 sexual assault investigations.

7 (e) Any agency failing to comply with paragraph (b) or (c) of this subsection  
8 shall, from the date the noncompliance commences, have one (1) year to  
9 reestablish the minimum number of trained officers required.

10 (3) The Justice and Public Safety Cabinet shall provide training on the subjects of  
11 domestic violence and abuse and may do so utilizing currently available technology.  
12 All certified peace officers shall be required to complete this training at least once  
13 every two (2) years.

14 (4) The council shall promulgate administrative regulations in accordance with KRS  
15 Chapter 13A to establish mandatory basic training and in-service training courses.

16 ➔Section 4. KRS 17.1523 is amended to read as follows:

17 (1) The uniform offense report shall contain provisions for obtaining information as to  
18 whether or not specific crimes appear from their facts and circumstances to be  
19 caused as a result of or reasonably related to race, color, religion, sex, or national  
20 origin.

21 (2) All law enforcement officers, when completing a uniform offense report, shall note  
22 thereon whether or not the offense appears to be caused as a result of or reasonably  
23 related to race, color, ethnicity,~~[religion, sex, or]~~ national origin, religion, mental  
24 or physical disability, gender identity or expression, or sexual orientation, or  
25 attempts to victimize or intimidate another due to any of the foregoing causes.

26 (3) The Justice and Public Safety Cabinet shall, annually, as a part of the crime reports  
27 report on crimes which appear to have been caused by the factors cited in

1 subsections (1) and (2) of this section.

2 ➔Section 5. KRS 15.340 is amended to read as follows:

3 Subject to approval by the secretary, the department may make its facilities and services  
4 available upon the following terms:

5 (1) The department may determine to which law enforcement agencies, corrections  
6 agencies, and court agencies and its officers it will offer training;

7 (2) In determining the law enforcement officers for which it will offer training and in  
8 allocating available funds, the department shall give first priority to "police officers"  
9 as defined by KRS 15.420~~(3)~~~~(2)~~, public airport authority security officers, and  
10 campus police;

11 (3) Fire investigators shall be offered training by the department;

12 (4) Except for the officers described in subsection (2) of this section, the department  
13 may determine whether persons to whom it offers training or agencies employing  
14 such persons must bear any or all costs of such training.

15 ➔Section 6. KRS 15.460 is amended to read as follows:

16 (1) (a) Except as provided in subsection (4)(a) of this section, an eligible unit of  
17 government shall be entitled to receive an annual supplement of three  
18 thousand dollars (\$3,000) for each qualified police officer it employs. The  
19 supplement amount shall be increased to four thousand dollars (\$4,000)  
20 beginning July 1, 2018.

21 (b) 1. In addition to the supplement, the unit of government shall receive an  
22 amount equal to the required employer's contribution on the supplement  
23 to the retirement plan and duty category to which the officer belongs. In  
24 the case of County Employees Retirement System membership, the  
25 retirement plan contribution on the supplement shall be paid whether the  
26 officer enters the system under hazardous duty coverage or  
27 nonhazardous coverage.

- 1           2. The unit of government shall pay the amount received for retirement  
2           plan coverage to the appropriate retirement system to cover the required  
3           employer contribution on the pay supplement.
- 4           3. If the foundation program funds are insufficient to pay employer  
5           contributions to the system, then the total amount available for  
6           retirement plan payments shall be prorated to each eligible government  
7           so that each receives the same percentage of required retirement plan  
8           costs attributable to the cash salary supplement.
- 9           (c) 1. In addition to the payments received under paragraphs (a) and (b) of this  
10          subsection, but only if sufficient funds are available to make all  
11          payments required under paragraph (b) of this subsection, each unit of  
12          government shall receive an administrative expense reimbursement in an  
13          amount equal to seven and sixty-five one-hundredths percent (7.65%) of  
14          the total annual supplement received greater than three thousand one  
15          hundred dollars (\$3,100) for each qualified police officer that is a local  
16          officer as defined in KRS 15.420~~(3)(a)1.~~~~[(2)(a)1.]~~ that it employs,  
17          subject to the cap established by subparagraph 3. of this paragraph.
- 18          2. The unit of government may use the moneys received under this  
19          paragraph in any manner it deems necessary to partially cover the costs  
20          of administering the payments received under paragraph (a) of this  
21          subsection.
- 22          3. The total amount distributed under this paragraph shall not exceed the  
23          total sum of five hundred twenty-five thousand dollars (\$525,000) for  
24          each fiscal year. If there are insufficient funds to provide for full  
25          reimbursement as provided in subparagraph 1. of this paragraph, then  
26          the amount shall be distributed pro rata to each eligible unit of  
27          government so that each receives the same percentage attributable to its

1 total receipt of the cash salary supplement.

2 (d) In addition to the payments received under paragraphs (a) and (b) of this  
3 subsection, each unit of government shall receive the associated fringe  
4 benefits costs for the total supplement of four thousand dollars (\$4,000) for  
5 each qualified police officer that is a state officer as defined in KRS  
6 15.420(3)(a)2.~~[(2)(a)2.]~~ that it employs. Fringe benefits shall be limited to  
7 retirement plan contributions and the federal insurance contributions act tax.

8 (e) Notwithstanding paragraphs (a) to (d) of this subsection, a Kentucky  
9 Department of Fish and Wildlife Resources conservation officer appointed  
10 pursuant to KRS 150.090(2) and listed in KRS 15.420(3)(a)2.n.~~[(2)(a)2.n.]~~  
11 shall be a participant in the Kentucky Law Enforcement Foundation Program  
12 fund, but shall not receive an annual supplement from that fund. A  
13 conservation officer shall receive an annual training stipend commensurate to  
14 the annual supplement paid to the police officer as defined in KRS 15.420.  
15 The annual training stipend disbursed to a conservation officer shall be paid  
16 from the game and fish fund pursuant to KRS 150.150.

17 (f) Any peace officer sanctioned by the Tourism, Arts and Heritage Cabinet shall  
18 be deemed a police officer solely for the purpose of inclusion in the Law  
19 Enforcement Foundation Program fund.

20 (2) The supplement provided in subsection (1) of this section shall be paid by the unit  
21 of government to each police officer whose qualifications resulted in receipt of a  
22 supplemental payment. The payment shall be in addition to the police officer's  
23 regular salary and, except as provided in subsection (4)(b) of this section, shall  
24 continue to be paid to a police officer who is a member of:

25 (a) The Kentucky National Guard during any period of activation under Title 10  
26 or 32 of the United States Code or KRS 38.030; or

27 (b) Any reserve component of the United States Armed Forces during any period

- 1 of activation with the United States Armed Forces.
- 2 (3) (a) A qualified sheriff who receives the maximum salary allowed by Section 246  
3 of the Kentucky Constitution and KRS 64.527 shall not receive a supplement.
- 4 (b) A qualified sheriff who does not receive the maximum salary allowed by  
5 Section 246 of the Kentucky Constitution and KRS 64.527, excluding the  
6 expense allowance provided by KRS 70.170, shall upon annual settlement  
7 with the fiscal court under KRS 134.192, receive that portion of the  
8 supplement that will not cause his or her compensation to exceed the  
9 maximum salary.
- 10 (c) A qualified sheriff who seeks to participate in the fund shall forward a copy of  
11 the annual settlement prepared under KRS 134.192 to the fund. The sheriff  
12 shall reimburse the fund if an audit of the annual settlement conducted  
13 pursuant to KRS 134.192 reflects that the sheriff received all or a portion of  
14 the supplement in violation of this section. A sheriff who fails to provide a  
15 copy of the annual settlement to the fund or to reimburse the fund after  
16 correction by audit, if required, shall not be qualified to participate in the fund  
17 for a period of two (2) years.
- 18 (d) A qualified deputy sheriff shall receive the supplement from the sheriff if the  
19 sheriff administers his or her own budget or from the county treasurer if the  
20 sheriff pools his or her fees. The failure of a sheriff to comply with the  
21 provisions of this section shall not affect the qualification of his or her  
22 deputies to participate in the fund.
- 23 (4) (a) Eligible units of government shall receive the salary supplement, excluding  
24 funds applicable to the employer's retirement plan contribution, provided in  
25 subsection (1) of this section for distribution to a police officer who is eligible  
26 under subsection (2) of this section.
- 27 (b) A qualified police officer receiving a salary supplement during any period of

1 military activation, as provided in subsection (2) of this section, shall not be  
 2 entitled to receive the employer's retirement plan contribution, and the salary  
 3 supplement shall not be subjected to an employee's contribution to a  
 4 retirement plan. The salary supplement shall otherwise be taxable for all  
 5 purposes.

6 (5) A unit of government receiving disbursements under this section shall follow all  
 7 laws applicable to it that may govern due process disciplinary procedures for its  
 8 officers, but this subsection shall not be interpreted to:

9 (a) Authorize the department, the cabinet, or the council to investigate, judge, or  
 10 exercise any control or jurisdiction regarding the compliance of a unit of  
 11 government with laws that may govern due process disciplinary procedures  
 12 for its officers, except as otherwise provided by laws;

13 (b) Create a private right of action for any police officer regarding an agency's  
 14 participation in this section;

15 (c) Authorize a termination of an agency's participation as a result of a judgment  
 16 that the unit of government failed to follow its procedures in any independent  
 17 cause of action brought by the police officer against the unit of government; or

18 (d) Prevent the adoption, amendment, or repeal of any laws that may govern the  
 19 due process disciplinary procedures of a unit of government's police officers.

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

21 Each law enforcement agency or other employing agency whose officers are required to  
 22 meet the training requirements of KRS 15.440(~~l~~)(~~k~~)(~~1~~)(~~j~~) shall retain a record of each of  
 23 its officers having met the biennial training. These records shall be made available upon  
 24 request to the Kentucky Law Enforcement Council and to the Justice and Public Safety  
 25 Cabinet.

26 ➔Section 8. KRS 15.520 is amended to read as follows:

27 (1) As used in this section:



- 1 (a) "Citizen" means any individual who is not:
- 2 1. A member or supervisor within the law enforcement agency that
- 3 employs an officer; or
- 4 2. An elected or appointed official within the unit of government under
- 5 which the law enforcement agency that employs the officer is organized;
- 6 (b) "Complaint" means any statement by a citizen, whether written or verbal, that
- 7 alleges any type of misconduct by an officer, including statements that are
- 8 submitted or received anonymously;
- 9 (c) "Disciplinary action" means termination, demotion, a decrease in pay or grade,
- 10 suspension without pay, and a written reprimand;
- 11 (d) "General employment policies" means the rules, regulations, policies, and
- 12 procedures commonly applicable to the general workforce or civilian
- 13 employees that are not unique to law enforcement activities or the exercise of
- 14 peace officer authority, regardless of whether those rules, regulations, policies,
- 15 and procedures exist or appear in a departmental manual or handbook that is
- 16 solely applicable to a law enforcement department or agency within the unit of
- 17 government employing the officer;
- 18 (e) "Interrogation" means a formal investigative interview and does not mean
- 19 conversations or meetings of supervisory personnel and subordinate officers
- 20 that are not intended to result in disciplinary action, such as conversations or
- 21 meetings held for the purpose of providing corrective instruction counseling
- 22 or coaching;
- 23 (f) "Law enforcement procedures" means only those policies, rules, and customs
- 24 that:
- 25 1. Are specific to the conduct of officers in the exercise of law enforcement
- 26 powers and functions, including, without limitation: use of force,
- 27 conduct in the course of pursuits, conduct during stops or detentions of

- 1 citizens, conduct in the course of interacting with, assisting, or  
2 questioning of citizens, and investigative conduct;
- 3 2. Are carried out in the course of peace officer functions;
- 4 3. Are not general employment policies; and
- 5 4. May exist in either written form or in the form of unwritten standards,  
6 practices, or protocols generally accepted and applied in the law  
7 enforcement profession;
- 8 (g) "Misconduct" means any act or omission by an officer that violates criminal  
9 law, law enforcement procedures, or the general employment policies of the  
10 employing agency; and
- 11 (h) "Officer" means a person employed as a full-time peace officer by a unit of  
12 government that receives funds under KRS 15.410 to 15.510, except a state  
13 officer listed in KRS 15.420(3)(a) 2.b. to f. and n., ~~[(2)(a)2.b. to f. and n.]~~, who  
14 has completed any officially established initial probationary period of  
15 employment lasting no longer than twelve (12) months not including, unless  
16 otherwise specified by the employing agency, any time the officer was  
17 employed and completing the basic training required by KRS 15.404.
- 18 (2) In order to establish a minimum system of professional conduct for officers of local  
19 units of government of this Commonwealth, the following standards are stated as  
20 the intention of the General Assembly to deal fairly and establish administrative due  
21 process rights in certain disciplinary matters concerning those officers of an  
22 employing unit of government that participates in the Kentucky Law Enforcement  
23 Foundation Program fund administered pursuant to KRS 15.430 and, at the same  
24 time, to provide a means for redress by the citizens of the Commonwealth for  
25 wrongs allegedly done to them by officers covered by this section.
- 26 (3) Any complaint taken from a citizen alleging misconduct on the part of any officer  
27 shall be taken as follows:

- 1 (a) If the complaint alleges criminal activity by an officer, the allegations may be  
2 investigated without a signed, sworn complaint of the citizen;
- 3 (b) If the complaint alleges any other type of violation not constituting criminal  
4 activity, including violations of law enforcement procedures or the general  
5 employment policies of the employing agency, an affidavit, signed and sworn  
6 to by the citizen, shall be obtained, except as provided by paragraph (c) of this  
7 subsection; or
- 8 (c) If a complaint is required to be obtained and the citizen, upon request, refuses  
9 to make allegations under oath in the form of an affidavit, signed and sworn  
10 to, the employing agency may investigate the allegations, but shall bring  
11 charges under subsection (6) of this section against the officer only if the  
12 employing agency can independently substantiate the allegations absent the  
13 sworn statement of the citizen.
- 14 (4) (a) When an officer is accused of an act or omission that would constitute a  
15 violation of law enforcement procedures by any individual within the law  
16 enforcement agency employing the officer, including supervisors and elected  
17 or appointed officials of the officer's employing agency, the employing agency  
18 shall conform the conduct of any investigation to the provisions of subsection  
19 (5) of this section, shall formally charge the officer in accordance with  
20 subsection (6) of this section, and shall conduct a hearing in accordance with  
21 subsection (7) of this section before any disciplinary action shall be taken  
22 against the officer.
- 23 (b) The provisions of this subsection shall not prevent the employing agency from  
24 suspending the officer, with or without pay, during an investigation and  
25 pending the final disposition of any formal charges, except that an officer  
26 suspended without pay shall be entitled to full back pay and benefits for the  
27 regular hours he or she would have worked if no formal charges are brought or

1 the hearing authority finds the officer not guilty of the charges.

2 (c) An employing agency shall not be required to follow the provisions of this  
3 section in addressing conduct by the officer that would constitute a violation  
4 of the general employment policies of the employing agency.

5 (5) (a) Any complaint filed by a citizen under subsection (3) of this section or any  
6 allegation of conduct that would constitute a violation of law enforcement  
7 procedures under subsection (4) of this section shall be investigated by the  
8 employing agency or another designated law enforcement agency in  
9 accordance with the provisions of this subsection if the employing agency  
10 determines that an investigation of the complaint or the alleged conduct is  
11 warranted.

12 (b) No threats, promises, or coercions shall be used at any time against any officer  
13 while he or she is a suspect in a criminal case or has been accused of a  
14 violation of law enforcement procedures. Suspension from duty with or  
15 without pay, or reassignment to other than an officer's regular duties during  
16 the period shall not be deemed coercion. Prior to or within twenty-four (24)  
17 hours after suspending the officer pending investigation or disposition of a  
18 complaint, the officer shall be advised in writing of the reasons for the  
19 suspension.

20 (c) Unless otherwise agreed to in writing by the officer, no police officer shall be  
21 subjected to interrogation for alleged conduct that violates law enforcement  
22 procedures, until forty-eight (48) hours have expired from the time the request  
23 for interrogation is made to the accused officer, in writing. The notice of  
24 interrogation shall include a statement regarding any reason for the  
25 interrogation and shall be served on the officer by certified mail, return receipt  
26 requested, or by personal delivery.

27 (d) The interrogation shall be conducted while the officer is on duty. The officer

1           may be required to submit a written report of the alleged incident if the  
2           request is made by the employing agency no later than the end of the subject  
3           officer's next tour of duty after the tour of duty during which the employing  
4           agency initially was made aware of the complaint.

5           (e) If an officer is under arrest, or likely to be arrested, or a suspect in any  
6           criminal investigation, he or she shall be afforded the same constitutional due  
7           process rights that are accorded to any civilian, including, but not limited to,  
8           the right to remain silent and the right to counsel, and shall be notified of  
9           those rights before any questioning commences.

10          (6) (a) If it is determined through investigation or other means that the facts alleged  
11               in a citizen complaint or in an accusation of a violation of law enforcement  
12               procedures warrant charging the officer, the charge shall be made in writing  
13               with sufficient specificity so as to fully inform the officer of the nature and  
14               circumstances of the alleged violation in order that he or she may be able to  
15               properly defend himself or herself.

16          (b) The charge shall be signed by a representative of the employing agency, shall  
17               set out the disciplinary action recommended or imposed, and shall be served  
18               on the officer in writing by certified mail, return receipt requested, or by  
19               personal delivery.

20          (c) When an officer has been charged with a violation of law enforcement  
21               procedures, no public statements shall be made concerning the alleged  
22               violation by any person or persons of the employing agency or the officer so  
23               charged, until final disposition of the charges.

24          (d) No officer as a condition of continued employment by the employing agency  
25               shall be compelled to speak or testify or be questioned by any person or body  
26               of a nongovernmental nature.

27          (7) Unless waived by the charged officer in writing, a hearing shall be conducted by the

1 officer's appointing authority to determine whether there is substantial evidence to  
2 prove the charges and to determine what, if any, disciplinary action shall be taken if  
3 substantial evidence does exist. In conducting a hearing, the following  
4 administrative due process rights shall be recognized and these shall be the  
5 minimum rights afforded any officer charged, except as otherwise agreed to in  
6 writing by the officer and the employing agency:

7 (a) The accused officer shall be given at least twelve (12) days' written notice of  
8 any hearing. The notice of hearing shall be served on the officer by certified  
9 mail, return receipt requested, or by personal delivery;

10 (b) Copies of any sworn statements or affidavits to be considered by the hearing  
11 authority and any exculpatory statements or affidavits shall be furnished to the  
12 officer no less than twelve days (12) prior to the time of any hearing;

13 (c) At any hearing based upon the sworn complaint of a citizen, the citizen shall  
14 be notified to appear at the time and place of the hearing by certified mail,  
15 return receipt requested, or by personal delivery;

16 (d) If the return receipt has been returned unsigned, or the individual does not  
17 appear, except due to circumstances beyond his or her control he or she cannot  
18 appear at the time and place of the hearing, any charge resulting from a  
19 complaint made by that citizen shall not be considered by the hearing  
20 authority and shall be dismissed with prejudice;

21 (e) The accused officer shall have the right and opportunity to obtain and have  
22 counsel present, and to be represented by counsel;

23 (f) The appointing authority, legislative body, or other body as designated by the  
24 Kentucky Revised Statutes shall subpoena and require the attendance of  
25 witnesses and the production by them of books, papers, records, and other  
26 documentary evidence at the request of the accused officer or the charging  
27 party. If any person fails or refuses to appear under the subpoena, or to testify,

- 1 or to attend, or produce the books, papers, records, or other documentary  
2 evidence lawfully required, the appointing authority, legislative body, or other  
3 body as designated by the Kentucky Revised Statutes may report to the Circuit  
4 Court or any judge thereof the failure or refusal, and apply for a rule. The  
5 Circuit Court, or any judge thereof, may on the application compel obedience  
6 by proceedings for contempt as in the case of disobedience of the  
7 requirements of a subpoena issued from the court;
- 8 (g) The accused officer shall be allowed to present witnesses and any  
9 documentary or other relevant evidence the officer wishes to provide to the  
10 hearing authority, and may cross-examine all witnesses called by the charging  
11 party;
- 12 (h) If any officer who has been suspended with or without pay is not given a  
13 hearing as provided by this section within seventy-five (75) days of any charge  
14 being filed pursuant to this section, the charge shall be dismissed with  
15 prejudice and shall not be considered by any hearing authority and the officer  
16 shall be reinstated with full back pay and benefits;
- 17 (i) Any officer who has been suspended without pay who is found not guilty of  
18 the charges by the hearing authority shall be reinstated with the full back pay  
19 and benefits for the regular hours he or she would have worked;
- 20 (j) The failure to provide any of the rights or to follow the provisions of this  
21 section may be raised by the officer with the hearing authority. The hearing  
22 authority shall not exclude proffered evidence based on failure to follow the  
23 requirements of this section but shall consider whether, because of the failure,  
24 the proffered evidence lacks weight or credibility and whether the officer has  
25 been materially prejudiced; and
- 26 (k) To the extent the provisions of KRS 61.805 to 61.850 are applicable, the  
27 hearing authority may conduct the hearing required by this subsection in a

- 1 closed session, unless the officer requests of the hearing authority in writing at  
2 least three (3) days prior to the hearing that the hearing be open to the public.
- 3 (8) (a) Any officer who is found guilty by any hearing authority of any charge, may  
4 bring an action in the Circuit Court in the county in which the employing  
5 agency is located within thirty (30) days of the date written findings are issued  
6 to appeal the action of the hearing authority. The appeal shall be initiated by  
7 the filing of a complaint in the same manner as any civil action under the  
8 Rules of Civil Procedure and shall include a copy of the hearing authority's  
9 final order. The Circuit Court review of the case shall be based solely upon the  
10 administrative record created before the hearing authority and any new  
11 evidence offered by the officer regarding alleged arbitrariness on the part of  
12 the hearing authority.
- 13 (b) The judgment of the Circuit Court shall be subject to appeal to the Court of  
14 Appeals. The procedure as to appeal to the Court of Appeals shall be the same  
15 as in any civil action.
- 16 (9) The provisions of KRS 90.310 to 90.410, 95.450, and 95.765 shall not apply in any  
17 proposed disciplinary action arising from a citizen complaint made under subsection  
18 (3) of this section or arising from any allegation of conduct that would constitute a  
19 violation of law enforcement procedures under subsection (4) of this section. This  
20 section shall not be interpreted or construed to alter or impair any of the substantive  
21 rights provided to a city police officer under KRS 90.310 to 90.410, 95.450, and  
22 95.765 for any proposed disciplinary action or other matters not arising under  
23 subsections (3) and (4) of this section, including proposed actions involving alleged  
24 violations of general employment policies. To the extent that the provisions of this  
25 section are inapplicable to any proposed disciplinary action against a city police  
26 officer, the provisions of KRS 90.310 to 90.410, 95.450, and 95.765 shall remain in  
27 full force and effect.



- 1 (10) As the provisions of this section relate to a minimum system of professional  
2 conduct, nothing in this section shall be interpreted or construed to:
- 3 (a) Limit or to in any way affect any rights previously afforded to officers of the  
4 Commonwealth by statute, collective bargaining or working agreement, or  
5 legally adopted ordinance;
- 6 (b) Preclude an employing agency from investigating and charging an officer both  
7 criminally and administratively;
- 8 (c) Prevent the suspension with or without pay or reassignment of an officer  
9 during an investigation and pending final disposition charges;
- 10 (d) Permit an employing agency to categorize and treat any complaint that  
11 originates from a citizen as an internal matter in order to avoid application of  
12 all of the provisions of this section to the final disposition of a citizen's  
13 complaint;
- 14 (e) Apply any disciplinary action required by this section to actions taken by an  
15 employing agency that is not related to misconduct by a law enforcement  
16 officer, such as personnel decisions made by the employing agency due to a  
17 lack of resources or personnel decisions related to a chief's management of a  
18 police department; or
- 19 (f) Prevent an employing agency from electing to apply the provisions of this  
20 section, or parts thereof, in circumstances that would not be covered under this  
21 section.
- 22 (11) This section shall not apply to officers employed by a consolidated local  
23 government that receives funds under KRS 15.410 to 15.510, who shall instead be  
24 governed by the provisions of KRS 67C.326.
- 25 ➔Section 9. The restrictions of KRS 6.945(1) shall not apply to Sections 1 to 8 of  
26 this Act.