

1 AN ACT relating to the transportation of students and declaring an emergency.

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

3 ➔Section 1. KRS 156.153 is amended to read as follows:

4 (1) All school buses for which bids are made or bid contracts awarded shall meet the
5 standards and specifications of the Kentucky Department of Education. The term
6 "school bus," as used in this section, shall mean any motor vehicle which meets the
7 standards and specifications for school buses as provided by law or by the standards
8 or specifications of the Kentucky Department of Education authorized by law and
9 used solely in transporting school children and school employees to and from
10 school under the supervision and control and at the direction of school authorities,
11 and shall further include school bus accessory equipment and supplies and
12 replacement equipment considered to be reasonably adaptable for purchase from
13 price contract agreements.

14 (2) ***School buses***~~[Except in cases of emergencies or for the transportation of students~~
15 ~~with disabilities, only School buses as defined in subsection (1) of this section shall~~
16 ~~be used for transporting students to and from school along regular bus routes.~~
17 ~~Districts may use district owned vehicles that were designed and built by the~~
18 ~~manufacturer for passenger transportation when transporting nine (9) or fewer~~
19 ~~passengers, including the driver, for approved school activities. Vehicles used~~
20 ~~under this subsection]~~ shall be clearly marked as transporting students and shall
21 ***undergo a***~~[be]~~ safety ***inspection***~~[inspected]~~ no less than once every thirty (30) days.

22 (3) ***(a) Districts may also use vehicles owned, leased, or contracted by the district***
23 ***that were designed and built by the manufacturer for passenger***
24 ***transportation of nine (9) or fewer passengers, including the driver, for***
25 ***transporting students to and from school and approved school activities***
26 ***under an alternative transportation plan approved by the Kentucky***
27 ***Department of Education.***

1 (b) Non-school bus passenger vehicles used under this subsection shall be
2 clearly marked as transporting students and undergo a safety inspection no
3 less than once every thirty (30) days.

4 (c) Non-school bus passenger vehicles used under this subsection shall be
5 operated by an employee or contractor of a local school district that has a
6 valid Class D operator's license. An individual that operates a non-school
7 bus passenger vehicle to transport a student or students without a current
8 valid license required by this paragraph shall be subject to the penalties set
9 forth in subsection (4) of Section 3 of this Act.

10 (d) The Kentucky Board of Education shall promulgate administrative
11 regulations in accordance with KRS Chapter 13A to establish:

12 1. Minimum standards and specifications for non-school bus passenger
13 vehicles used under this subsection, including a standard for
14 minimum insurance coverage;

15 2. Minimum route safety standards and pick-up and drop-off protocols
16 for pupil transportation using non-school bus passenger vehicles that
17 prohibit non-school bus passenger vehicles from depositing a student
18 at a location that would require the student to cross a road or
19 intersection to reach the student's destination; and

20 3. Minimum qualifications, training, and drug testing requirements for
21 an individual to be authorized to transport any student to and from
22 school using a non-school bus passenger vehicle. The drug testing
23 requirements shall require an individual to submit to drug testing
24 consistent with the requirements of 49 C.F.R. pt. 40 to be authorized to
25 transport students to and from school using a non-school bus
26 passenger vehicle.

27 (4) As part of its regular procedure for establishing and updating ~~school bus~~ standards

1 and specifications for school buses and non-school bus passenger vehicles, the
2 Kentucky Department of Education shall consider allowing school buses to operate
3 using clean transportation fuels, as defined in KRS 186.750. If the department
4 determines that school buses or non-school bus passenger vehicles may operate
5 using clean transportation fuels while maintaining the same or a higher degree of
6 safety as fuels currently allowed, it shall update its standards and specifications to
7 allow for such use.

8 ➔Section 2. KRS 160.380 is amended to read as follows:

9 (1) As used in this section:

10 (a) "Administrative finding of child abuse or neglect" means a substantiated
11 finding of child abuse or neglect issued by the Cabinet for Health and Family
12 Services that is:

- 13 1. Not appealed through an administrative hearing conducted in
14 accordance with KRS Chapter 13B;
- 15 2. Upheld at an administrative hearing conducted in accordance with KRS
16 Chapter 13B and not appealed to a Circuit Court; or
- 17 3. Upheld by a Circuit Court in an appeal of the results of an
18 administrative hearing conducted in accordance with KRS Chapter 13B;

19 (b) "Alternative education program" means a program that exists to meet the
20 needs of students that cannot be addressed in a traditional classroom setting
21 but through the assignment of students to alternative classrooms, centers, or
22 campuses that are designed to remediate academic performance, improve
23 behavior, or provide an enhanced learning experience. Alternative education
24 programs do not include career or technical centers or departments;

25 (c) "Clear CA/N check" means a letter from the Cabinet for Health and Family
26 Services indicating that there are no administrative findings of child abuse or
27 neglect relating to a specific individual;

- 1 (d) "Relative" means father, mother, brother, sister, husband, wife, son and
2 daughter; and
- 3 (e) "Vacancy" means any certified position opening created by the resignation,
4 dismissal, nonrenewal of contract, transfer, or death of a certified staff
5 member of a local school district, or a new position created in a local school
6 district for which certification is required. However, if an employer-employee
7 bargained contract contains procedures for filling certified position openings
8 created by the resignation, dismissal, nonrenewal of contract, transfer, or
9 death of a certified staff member, or creation of a new position for which
10 certification is required, a vacancy shall not exist, unless certified positions
11 remain open after compliance with those procedures.
- 12 (2) Except as provided in KRS 160.346, the school district personnel actions identified
13 in this section shall be carried out as follows:
- 14 (a) All appointments, promotions, and transfers of principals, supervisors,
15 teachers, and other public school employees shall be made only by the
16 superintendent of schools, who shall notify the board of the action taken. All
17 employees of the local district shall have the qualifications prescribed by law
18 and by the administrative regulations of the Kentucky Board of Education and
19 of the employing board. Supervisors, principals, teachers, and other
20 employees may be appointed by the superintendent for any school year at any
21 time after February 1 preceding the beginning of the school year. No
22 superintendent of schools shall appoint or transfer himself or herself to
23 another position within the school district;
- 24 (b) When a vacancy occurs in a local school district, the superintendent shall
25 submit the job posting to the statewide job posting system described in KRS
26 160.152 fifteen (15) days before the position shall be filled. The local school
27 district shall post position openings in the local board office for public

1 viewing;

2 (c) When a vacancy needs to be filled in less than fifteen (15) days' time to
3 prevent disruption of necessary instructional or support services of the school
4 district, the superintendent may seek a waiver from the chief state school
5 officer. If the waiver is approved, the appointment shall not be made until the
6 person recommended for the position has been approved by the chief state
7 school officer. The chief state school officer shall respond to a district's
8 request for waiver or for approval of an appointment within two (2) working
9 days; and

10 (d) When a vacancy occurs in a local district, the superintendent shall conduct a
11 search to locate minority teachers to be considered for the position. The
12 superintendent shall, pursuant to administrative regulations of the Kentucky
13 Board of Education, report annually the district's recruitment process and the
14 activities used to increase the percentage of minority teachers in the district.

15 (3) Restrictions on employment of relatives shall be as follows:

16 (a) No relative of a superintendent of schools shall be an employee of the school
17 district. However, this shall not apply to a relative who is a classified or
18 certified employee of the school district for at least thirty-six (36) months
19 prior to the superintendent assuming office and who is qualified for the
20 position the employee holds. A superintendent's spouse who has previously
21 been employed in a school system may be an employee of the school district.
22 A superintendent's spouse who is employed under this provision shall not hold
23 a position in which the spouse supervises certified or classified employees. A
24 superintendent's spouse may supervise teacher aides and student teachers.
25 However, the superintendent shall not promote a relative who continues
26 employment under an exception of this subsection;

27 (b) No superintendent shall employ a relative of a school board member of the

- 1 district;
- 2 (c) No principal's relative shall be employed in the principal's school; and
- 3 (d) A relative that is ineligible for employment under paragraph (a), (b), or (c) of
- 4 this subsection may be employed as a substitute for a certified or classified
- 5 employee if the relative is not:
- 6 1. A regular full-time or part-time employee of the district;
- 7 2. Accruing continuing contract status or any other right to continuous
- 8 employment;
- 9 3. Receiving fringe benefits other than those provided other substitutes; or
- 10 4. Receiving preference in employment or assignment over other
- 11 substitutes.
- 12 (4) No superintendent shall assign a certified or classified staff person to an alternative
- 13 education program as part of any disciplinary action taken pursuant to KRS 161.011
- 14 or 161.790 as part of a corrective action plan established pursuant to the local
- 15 district evaluation plan.
- 16 (5) No superintendent shall initially employ in any position in the district any person
- 17 who is a violent offender or has been convicted of a sex crime as defined by KRS
- 18 17.165 which is classified as a felony or persons with an administrative finding of
- 19 child abuse or neglect in records maintained by the Cabinet for Health and Family
- 20 Services. The superintendent may employ, at his or her discretion, except at a
- 21 Kentucky Educational Collaborative for State Agency Children program, persons
- 22 convicted of sex crimes classified as a misdemeanor.
- 23 (6) Requirements for background checks shall be as follows:
- 24 (a) A superintendent shall require the following individuals to submit to a
- 25 national and state criminal background check by the Department of Kentucky
- 26 State Police and the Federal Bureau of Investigation and have a clear CA/N
- 27 check, provided by the individual:

- 1 1. Each new certified or classified hire;
- 2 2. A nonfaculty coach or nonfaculty assistant as defined under KRS
- 3 161.185;
- 4 3. A student teacher;
- 5 4. A school-based decision making council parent member; and
- 6 5. Any adult who is permitted access to school grounds on a regularly
- 7 scheduled and continuing basis pursuant to a written agreement for the
- 8 purpose of providing services directly to a student or students as part of
- 9 a school-sponsored program or activity;
- 10 (b) 1. The requirements of paragraph (a) of this subsection shall not apply to:
 - 11 a. Classified and certified individuals employed by the school district
 - 12 prior to June 27, 2019;
 - 13 b. Certified individuals who were employed in another certified
 - 14 position in a Kentucky school district within six (6) months of the
 - 15 date of hire and who had previously submitted to a national and
 - 16 state criminal background check and who have a clear CA/N check
 - 17 for the previous employment; or
 - 18 c. Student teachers who have submitted to and provide a copy of a
 - 19 national and state criminal background check by the Department
 - 20 of Kentucky State Police and the Federal Bureau of Investigation
 - 21 through an accredited teacher education institution in which the
 - 22 student teacher is enrolled and who have a clear CA/N check.
- 23 2. The Education Professional Standards Board may promulgate
- 24 administrative regulations to impose additional qualifications to meet
- 25 the requirements of **Pub. L. No.**~~[Public Law]~~ 92-544;
- 26 (c) A parent member may serve prior to the receipt of the criminal history
- 27 background check and CA/N letter required by paragraph (a) of this

1 subsection but shall be removed from the council on receipt by the school
2 district of a report documenting a record of abuse or neglect, or a sex crime or
3 criminal offense against a victim who is a minor as defined in KRS 17.500, or
4 as a violent offender as defined in KRS 17.165, and no further procedures
5 shall be required;~~and~~

6 (d) A superintendent may require a volunteer or a visitor to submit to a national
7 and state criminal history background check by the Department of Kentucky
8 State Police and the Federal Bureau of Investigation and have a clear CA/N
9 check, provided by the individual; and

10 (e) The superintendent of a school district operating under an alternative
11 transportation plan approved by the Kentucky Department of Education in
12 accordance with subsection (3) of Section 1 of this Act shall require the
13 driver of any non-school bus passenger vehicle authorized to transport
14 students to and from school pursuant to the alternative transportation plan
15 who does not have a valid commercial driver's license issued in accordance
16 with KRS Chapter 281A with an "S" endorsement to:

17 1. Submit to a national and state criminal background check by the
18 Department of Kentucky State Police and the Federal Bureau of
19 Investigation at least once every three (3) years and a criminal records
20 check conducted in accordance with KRS 27A.090 in all other years;

21 2. Submit to drug testing consistent with the requirements of 49 C.F.R.
22 pt. 40;

23 3. Provide a biannual driving history record check performed by the
24 Transportation Cabinet;

25 4. Provide an annual clear CA/N check;

26 5. Immediately notify the superintendent of any conviction for a violation
27 under KRS Chapter 189 for which penalty points are assessed; and

1 **6. Immediately notify the superintendent of any citation or arrest for a**
2 **violation of any provision of KRS Chapter 189A. The superintendent**
3 **shall inform the Kentucky Department of Education of the**
4 **notification.**

5 (7) (a) If a certified or classified position remains unfilled after July 31 or if a
6 vacancy occurs during a school term, a superintendent may employ an
7 individual, who will have supervisory or disciplinary authority over minors,
8 on probationary status pending receipt of the criminal history background
9 check and a clear CA/N check, provided by the individual. Application for the
10 criminal record and a request for a clear CA/N check of a probationary
11 employee shall be made no later than the date probationary employment
12 begins.

13 (b) Employment shall be contingent on the receipt of the criminal history
14 background check documenting that the probationary employee has no record
15 of a sex crime nor as a violent offender as defined in KRS 17.165 and receipt
16 of a letter, provided by the individual, from the Cabinet for Health and Family
17 Services stating the employee is clear to hire based on no administrative
18 findings of child abuse or neglect found through a background check of child
19 abuse and neglect records maintained by the Cabinet for Health and Family
20 Services.

21 (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary,
22 probationary employment under this section shall terminate on receipt by the
23 school district of a criminal history background check documenting a record
24 of a sex crime or as a violent offender as defined in KRS 17.165 and no
25 further procedures shall be required.

26 (8) The provisions of KRS 161.790 shall apply to terminate employment of a certified
27 employee on the basis of a criminal record other than a record of a sex crime or as a

1 violent offender as defined in KRS 17.165, or on the basis of a CA/N check
2 showing an administrative finding of child abuse or neglect.

3 (9) (a) All fingerprints requested under this section shall be on an applicant
4 fingerprint card provided by the Department of Kentucky State Police. The
5 fingerprint cards shall be forwarded to the Federal Bureau of Investigation
6 from the Department of Kentucky State Police after a state criminal
7 background check is conducted. The results of the state and federal criminal
8 background check shall be sent to the hiring superintendent. Any fee charged
9 by the Department of Kentucky State Police, the Federal Bureau of
10 Investigation, and the Cabinet for Health and Family Services shall be an
11 amount no greater than the actual cost of processing the request and
12 conducting the search.

13 (b) Each application form, provided by the employer to an applicant for a
14 certified or classified position, shall conspicuously state the following: "FOR
15 THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL
16 AND STATE CRIMINAL HISTORY BACKGROUND CHECK AND A
17 LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET
18 FOR HEALTH AND FAMILY SERVICES STATING THE APPLICANT
19 HAS NO ADMINISTRATIVE FINDINGS OF CHILD ABUSE OR
20 NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD
21 ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET
22 FOR HEALTH AND FAMILY SERVICES."

23 (c) Each application form for a district position shall require the applicant to:
24 1. Identify the states in which he or she has maintained residency,
25 including the dates of residency; and
26 2. Provide picture identification.

27 (10) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary,

1 when an employee of the school district is charged with any offense which is
2 classified as a felony, the superintendent may transfer the employee to a second
3 position until such time as the employee is found not guilty, the charges are
4 dismissed, the employee is terminated, or the superintendent determines that further
5 personnel action is not required. The employee shall continue to be paid at the same
6 rate of pay he or she received prior to the transfer. If an employee is charged with
7 an offense outside of the Commonwealth, this provision may also be applied if the
8 charge would have been treated as a felony if committed within the
9 Commonwealth. Transfers shall be made to prevent disruption of the educational
10 process and district operations and in the interest of students and staff and shall not
11 be construed as evidence of misconduct.

12 (11) Notwithstanding any law to the contrary, each certified and classified employee of
13 the school district shall notify the superintendent if he or she has been found by the
14 Cabinet for Health and Family Services to have abused or neglected a child, and if
15 he or she has waived the right to appeal a substantiated finding of child abuse or
16 neglect or if the substantiated incident was upheld upon appeal. Any failure to
17 report this finding shall result in the certified or classified employee being subject
18 to dismissal or termination.

19 (12) The form for requesting a CA/N check shall be made available on the Cabinet for
20 Health and Family Services website.

21 ➔Section 3. KRS 156.990 is amended to read as follows:

22 (1) Any witness who fails, without legal excuse, to attend or to testify, when required
23 by the chief state school officer under these provisions, shall be fined not more than
24 twenty-five dollars (\$25) for each offense.

25 (2) Any person who violates any of the provisions of KRS 156.400 to 156.470 shall be
26 fined not more than five hundred dollars (\$500) or imprisoned not more than three

27 (3) months, or both.

1 (3) A violation of subsection (1) of KRS 156.483 shall cause the Department of
2 Education to be fined not less than five hundred dollars (\$500) or more than one
3 thousand dollars (\$1,000).

4 **(4) Any person who operates a non-school bus passenger vehicle to transport a**
5 **student or students within the Commonwealth without holding a current valid**
6 **license as required pursuant to subsection (3)(c) of Section 1 of this Act shall be**
7 **guilty of a Class D felony.**

8 ➔Section 4. Whereas achieving efficiency in pupil transportation in the
9 Commonwealth is of paramount importance to schools, students, and parents, an
10 emergency is declared to exist, and this Act takes effect upon its passage and approval by
11 the Governor or upon its otherwise becoming a law.