

## CHAPTER 153

## ( HB 535 )

AN ACT relating to criminal justice and making an appropriation therefor.

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

➔Section 1. KRS 15.280 is amended to read as follows:

- (1) A Criminal Justice Statistical Analysis Center is hereby created as part of the Kentucky Justice and Public Safety Cabinet.
- (2) The Criminal Justice Statistical Analysis Center shall provide its reports and recommendations to the Governor and the General Assembly through the secretary of the Justice and Public Safety Cabinet.
- (3) The Criminal Justice Statistical Analysis Center shall:
  - (a) Improve the quality and usefulness of criminal justice statistics and research results that are disseminated to citizens, public agencies, and private agencies in Kentucky through the collection, analysis, assimilation, and analysis of research and statistical data, **information, and records** ~~from within the cabinet, from other executive, judicial, and legislative agencies, and from private sources~~;
  - (b) **Receive, process, and preserve any criminal justice and public safety data, information, and records within the possession, custody, or control of any agency of the federal, state, or local government, or from a private entity;**
  - (c) Publish research results and statistical data ~~that are requested by criminal justice agencies~~;
  - ~~(d)(e)~~ Improve the relationship between citizens and criminal justice agencies of Kentucky by conducting citizen surveys of the needs, attitudes, and behavior relating to crime and justice; ~~and~~
  - ~~(e)(d)~~ Strengthen the relationship between Kentucky criminal justice agencies and the Bureau of Justice Statistics, United States Department of Justice, by:
    1. Providing justice statistics to the Bureau of Justice Statistics as required; and
    2. Serving as a clearinghouse for Bureau of Justice Statistics materials; **and**
  - (f) **Design, implement, and maintain a Criminal Justice Statistical Analysis Center records information system.**
- (4) The Kentucky Justice and Public Safety Cabinet may expend any **general, restricted,** ~~federal grants~~ or federal funds **appropriated** ~~provided~~ for carrying out the functions and authority as assigned in this section. Further, the Kentucky Justice and Public Safety Cabinet may employ such employees as may be necessary to fulfill the duties, responsibilities, and functions assigned by this section.
- (5) Information and record copies that are confidential under state or federal law and are provided to the Criminal Justice Statistical Analysis Center shall not become the information and records of the center and shall not lose their confidentiality by virtue of the center's access to the information and records. The original information and records used to generate information and record copies provided to the center shall be maintained by the appropriate agency in accordance with state and federal law and shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. All open records requests shall be made to the appropriate agency, not to the Criminal Justice Statistical Analysis Center. Information and record copies provided to the Criminal Justice Statistical Analysis Center for review shall be exempt from the Kentucky Open Records Act, KRS 61.870 to 61.884.

➔Section 2. KRS 15A.190 is amended to read as follows:

~~(1)~~—The Justice and Public Safety Cabinet, in consultation with the Cabinet for Health and Family Services, the Kentucky Commission on Women, and any other agency concerned with particular acts of criminal activity, shall:

- ~~(1)(a)~~ Design, print, and distribute to all law enforcement agencies in the Commonwealth, **an electronic or paper**~~a~~ uniform reporting form, **to be known as the JC-3**, which provides statistical information relating to the crimes involving domestic violence, child abuse, victimization of the elderly, including but not limited to elder abuse, neglect, and exploitation and other crimes against the elderly, or any other particular area of

criminal activity deemed by the secretary of justice and public safety to require research as to its frequency; and

- (2)~~(b)~~ **Promulgate administrative regulations, in accordance with KRS Chapter 13A, to provide that the information required in KRS 209A.122 be *provided to the Criminal Justice Statistical Analysis Center***~~[included in the uniform reporting form].~~

~~{(2) The provision of subsection (1) of this section concerning the distribution of forms shall become effective on January 1, 2006.}~~

➔Section 3. KRS 209A.122 is amended to read as follows:

- (1) As used in this section:
- (a) "Center" means the Criminal Justice Statistical Analysis Center created in KRS 15.280;
  - (b) "Corollary victim" means an individual other than the victim who is directly impacted by domestic violence and abuse or dating violence and abuse, either through relationship or proximity;
  - (c) "Domestic violence fatalities" means deaths that occur as a result of domestic violence and abuse or dating violence and abuse, and includes but is not limited to homicides, related suicides, and corollary victims; and
  - (d) "Near fatality" means a crime where serious physical injury as defined in KRS 500.080 occurs.
- (2) The center shall:
- (a) Collect information on domestic violence fatalities, domestic violence and abuse, and dating violence and abuse within the Commonwealth from subsections (3) to (5)~~{(8)}~~ of this section; and
  - (b) Produce an annual report by July 1 of each year and submit the report to the:
    1. Kentucky Coalition Against Domestic Violence;
    2. Governor;
    3. Cabinet for Health and Family Services;
    4. Interim Joint Committee on Judiciary;
    5. Interim Joint Committee on Health, Welfare, and Family Services; and
    6. Legislative Research Commission.

The Kentucky Coalition Against Domestic Violence may provide the agencies listed in paragraph (b)1. to 6. of this subsection with best practices and any other recommendations for public policy by November 1 of each year.

- (3) (a) The Department of Kentucky State Police shall provide the center with:
1. The number of domestic violence and abuse and dating violence and abuse calls for service to which the Kentucky State Police and associated law enforcement agencies responded;
  2. The number of arrests by Kentucky State Police and associated agencies in response to calls of domestic violence and abuse or dating violence and abuse; and
  3. If an arrest was made, the arresting offense charged by Kentucky State Police or associated law enforcement agencies.
- (b) The Department of Kentucky State Police shall separately ***provide the center with information reported to the Law Information Network of Kentucky (LINK). The Department of Kentucky State Police shall provide the center with the:***
1. ***Number of orders of protection received to be served by law enforcement agencies;***
  2. ***Number of orders of protection served by law enforcement agencies;***
  3. ***Number of orders of protection in LINK; and***
  4. ***Average time for actual service to be returned***

~~report:~~

- ~~1. The number of domestic violence and abuse and dating violence and abuse calls for service to which all other law enforcement agencies responded, if known;~~
  - ~~2. The number of arrests by all other local law enforcement agencies in response to calls of domestic violence and abuse and dating violence and abuse; and~~
  - ~~3. If an arrest was made, the arresting offense listed by all other local law enforcement agencies not reported under paragraph (a) of this subsection.~~
- (4) The Administrative Office of the Courts shall provide the center with:
- (a) The number and type of petitions for orders of protection filed and denied under KRS 403.725;
  - (b) The number and type of petitions for interpersonal violence orders filed and denied under KRS 456.030;
  - (c) The number of emergency protective orders granted under KRS 403.730 and temporary interpersonal protective orders granted under KRS 456.040;
  - (d) The number of domestic violence orders granted under KRS 403.740 and interpersonal protective orders granted under 456.060, excluding amended or corrected orders;
  - (e) The relationship between the petitioner and the respondent, if known;
  - (f) Demographics of the parties, including age, race, and gender;
  - (g) Information on whether the victim was or is pregnant, if indicated on the petition; and
  - (h) The number of criminal charges for a violation of an order of protection.
- ~~{(5) The Law Information Network of Kentucky (LINK) shall provide the center with the:~~
- ~~(a) Number of orders of protection received to be served by law enforcement agencies;~~
  - ~~(b) Number of orders of protection served by law enforcement agencies;~~
  - ~~(c) Number of orders of protection in LINK; and~~
  - ~~(d) Average time for actual service to be returned.}~~
- (5){(6)} The Cabinet for Health and Family Services shall provide the center with:
- (a) The number of reports of alleged child abuse made to the cabinet through an adult or child abuse hotline in which there were also allegations of domestic violence; and
  - (b) Domestic violence and abuse and dating violence and abuse shelter statistics reported to the cabinet, including but not limited to the:
    - ~~1. Number of beds;~~
    - ~~2. Number of minors served in shelter;~~
    - ~~3. Number of minors served in non-shelter services;~~
    - ~~4. Number of adults served in shelter;~~
    - ~~5. Number of adults served in non-shelter services;~~
    - ~~6. Demographics, including age and race;~~
    - ~~7. Number of crisis or hotline calls;~~
    - ~~8. Number of minors receiving:
 
      - a. Crisis intervention;
      - b. Victim advocacy services; and
      - c. Individual or group counseling or support group; *and*~~
    - ~~9. Number of adult victims receiving:
 
      - a. Crisis intervention;~~

- b. Victim advocacy services;
- c. Individual or group counseling or support group;
- d. Criminal or civil legal advocacy;
- e. Medical accompaniment; and
- f. Transportation services~~}; and~~

~~10. Type of services provided.~~

~~(7) The Division of Kentucky State Medical Examiner's Office shall provide the center with the number of deaths in which domestic violence and abuse or dating violence and abuse was a contributing factor.~~

~~(8) Coroners shall provide the center with the number of deaths as a result of, or suspected to be a result of, domestic violence and abuse or dating violence and abuse.~~

➔Section 4. KRS 500.080 is amended to read as follows:

As used in the Kentucky Penal Code, unless the context otherwise requires:

- (1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association;
- (2) "Crime" means a misdemeanor or a felony;
- (3) "Dangerous instrument" means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury. ***"Dangerous instrument" may include a laser;***
- (4) "Deadly weapon" means any of the following:
  - (a) A weapon of mass destruction;
  - (b) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;
  - (c) Any knife other than an ordinary pocket knife or hunting knife;
  - (d) Billy, nightstick, or club;
  - (e) Blackjack or slapjack;
  - (f) Nunchaku karate sticks;
  - (g) Shuriken or death star; or
  - (h) Artificial knuckles made from metal, plastic, or other similar hard material;
- (5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one (1) year in the custody of the Department of Corrections may be imposed;
- (6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;
- (7) "He" means any natural person and, where relevant, a corporation or an unincorporated association;
- (8) "Impacted by the disaster" means the location or in reasonable proximity to the location where a natural or man-made disaster has caused physical injury, serious physical injury, death, or substantial damage to property or infrastructure;
- (9) ***"Laser" means any device designed or used to amplify electromagnetic radiation by stimulated emission that emits a beam, other than a medical laser when used in medical treatment or surgery;***
- (10) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;
- ~~(11)(10)~~ "Minor" means any person who has not reached the age of majority as defined in KRS 2.015;
- ~~(12)(11)~~ "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;

- (13)~~(12)~~ "Natural or man-made disaster" means a tornado, storm, or other severe weather, earthquake, flood, or fire that poses a significant threat to human health and safety, property, or critical infrastructure;
- (14)~~(13)~~ "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same;
- (15)~~(14)~~ "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority;
- (16)~~(15)~~ "Physical injury" means substantial physical pain or any impairment of physical condition;
- (17)~~(16)~~ "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;
- (18)~~(17)~~ "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health,~~or~~ prolonged loss or impairment of the function of any bodily organ, *or eye damage or visual impairment*. For a child twelve (12) years of age or less at the time of the injury, a serious physical injury includes but is not limited to the following:
- (a) Bruising near the eyes, or on the head, neck, or lower back overlying the kidneys;
  - (b) Any bruising severe enough to cause underlying muscle damage as determined by elevated creatine kinase levels in the blood;
  - (c) Any bruising or soft tissue injury to the genitals that affects the ability to urinate or defecate;
  - (d) Any testicular injury sufficient to put fertility at risk;
  - (e) Any burn near the eyes or involving the mouth, airway, or esophagus;
  - (f) Any burn deep enough to leave scarring or dysfunction of the body;
  - (g) Any burn requiring hospitalization, debridement in the operating room, IV fluids, intubation, or admission to a hospital's intensive care unit;
  - (h) Rib fracture;
  - (i) Scapula or sternum fractures;
  - (j) Any broken bone that requires surgery;
  - (k) Head injuries that result in intracranial bleeding, skull fracture, or brain injury;
  - (l) A concussion that results in the child becoming limp, unresponsive, or results in seizure activity;
  - (m) Abdominal injuries that indicate internal organ damage regardless of whether surgery is required;
  - (n) Any injury requiring surgery;
  - (o) Any injury that requires a blood transfusion; and
  - (p) Any injury requiring admission to a hospital's critical care unit;
- (19)~~(18)~~ "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral;
- (20)~~(19)~~ "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed; and
- (21)~~(20)~~ "Weapon of mass destruction" means:
- (a) Any destructive device as defined in KRS 237.030, but not fireworks as defined in KRS 227.700;
  - (b) Any weapon that is designed or intended to cause death or serious physical injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors;
  - (c) Any weapon involving a disease organism; or
  - (d) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

