

1 AN ACT relating to deoxyribonucleic acid evidence.

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

3 ➔Section 1. KRS 15.440 is amended to read as follows:

- 4 (1) Each unit of government that meets the following requirements shall be eligible to  
5 share in the distribution of funds from the Law Enforcement Foundation Program  
6 fund:
- 7 (a) Employs one (1) or more police officers;
  - 8 (b) Pays every police officer at least the minimum federal wage;
  - 9 (c) Requires all police officers to have, at a minimum, a high school degree, or its  
10 equivalent as determined by the council, except that each police officer  
11 employed prior to the date on which the officer's police department was  
12 included as a participant under KRS 15.410 to 15.510 shall be deemed to have  
13 met the requirements of this subsection;
  - 14 (d) 1. Requires all police officers to successfully complete a basic training  
15 course of nine hundred twenty-eight (928) hours' duration within one (1)  
16 year of the date of employment at a school certified or recognized by the  
17 council, which may provide a different number of hours of instruction as  
18 established in this paragraph, except that each police officer employed  
19 prior to the date on which the officer's police department was included  
20 as a participant under KRS 15.410 to 15.510 shall be deemed to have  
21 met the requirements of this subsection.
  - 22 2. As the exclusive method by which the number of hours required for  
23 basic training courses shall be modified from that which is specifically  
24 established by this paragraph, the council may, by the promulgation of  
25 administrative regulations in accordance with the provisions of KRS  
26 Chapter 13A, explicitly set the exact number of hours for basic training  
27 at a number different from nine hundred twenty-eight (928) hours based

1                   upon a training curriculum approved by the Kentucky Law Enforcement  
2                   Council as determined by a validated job task analysis.

3                   3. If the council sets an exact number of hours different from nine hundred  
4                   twenty-eight (928) in an administrative regulation as provided by this  
5                   paragraph, it shall not further change the number of hours required for  
6                   basic training without promulgating administrative regulations in  
7                   accordance with the provisions of KRS Chapter 13A.

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

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

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

27                  b. Basic training completed in another state.

- 1           6.   KRS 15.400 and 15.404(1) and subparagraphs 1. to 4. of this paragraph  
2           to the contrary notwithstanding, the council may, through the  
3           promulgation of administrative regulations in accordance with KRS  
4           Chapter 13A, approve basic training credit for:
- 5           a.   Completion of eight hundred forty-eight (848) hours of training at  
6           a school established pursuant to KRS 15A.070;
  - 7           b.   A minimum of fifteen (15) years of experience as a certified law  
8           enforcement instructor at a school established pursuant to KRS  
9           15A.070;
  - 10          c.   Completion of an average of forty (40) hours of Kentucky Law  
11          Enforcement Council approved in-service training annually from  
12          January 1, 1997, through January 1, 2020;
  - 13          d.   Three (3) years of active, full-time service as a:
    - 14           i.   City, county, urban-county, charter county, consolidated  
15           local, or unified local government police officer;
    - 16           ii.  Sheriff's deputy, excluding special deputies appointed under  
17           KRS 70.045;
    - 18           iii. Department of Kentucky State Police officer; or
    - 19           iv.  Kentucky Department of Fish and Wildlife Resources  
20           conservation officer exercising peace officer powers under  
21           KRS 150.090; and
  - 22          e.   Completion of the:
    - 23           i.   Twenty-four (24) hour legal update Penal Code course;
    - 24           ii.  Sixteen (16) hour legal update constitutional procedure  
25           course; and
    - 26           iii. Forty (40) hour basic officer skills course within one (1) year  
27           prior to applying for certification;

- 1 (e) Requires all police officers to successfully complete each calendar year an in-  
2 service training course, appropriate to the officer's rank and responsibility and  
3 the size and location of the officer's police department, of forty (40) hours'  
4 duration, at a school certified or recognized by the council which may include  
5 a four (4) hour course which meets the requirements of paragraph (j) of this  
6 subsection. This in-service training requirement shall be waived for the period  
7 of time that a peace officer is serving on active duty in the United States  
8 Armed Forces. This waiver shall be retroactive for peace officers from the  
9 date of September 11, 2001;
- 10 (f) Complies with all provisions of law applicable to police officers or police  
11 departments, including transmission of data to the centralized criminal history  
12 record information system as required by KRS 17.150 and transmission of  
13 reports as required by KRS 15.391;
- 14 (g) Complies with all rules and regulations, appropriate to the size and location of  
15 the police department issued by the cabinet to facilitate the administration of  
16 the fund and further the purposes of KRS 15.410 to 15.510;
- 17 (h) Possesses a written policy and procedures manual related to domestic violence  
18 for law enforcement agencies that has been approved by the cabinet. The  
19 policy shall comply with the provisions of KRS 403.715 to 403.785. The  
20 policy shall include a purpose statement; definitions; supervisory  
21 responsibilities; procedures for twenty-four (24) hour access to protective  
22 orders; procedures for enforcement of court orders or relief when protective  
23 orders are violated; procedures for timely and contemporaneous reporting of  
24 adult abuse and domestic violence to the Cabinet for Health and Family  
25 Services, Department for Community Based Services; victim rights,  
26 assistance, and service responsibilities; and duties related to timely completion  
27 of records;

1 (i) Possesses by January 1, ~~2017~~2023, a written policy and procedures manual  
2 related to sexual assault examinations that meets the standards provided by,  
3 and has been approved by, the cabinet, and which includes:

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

1                   *submitted solely for elimination purposes shall not be checked against*  
2                   *any DNA index, retained, or included in any DNA index; and*

- 3           (j) Requires all police officers to successfully complete by December 31, 2022,  
4           and every two (2) years thereafter, a training course certified by the council of  
5           not less than four (4) hours in emergency vehicle operation.
- 6   (2) A unit of government which meets the criteria of this section shall be eligible to  
7   continue sharing in the distribution of funds from the Law Enforcement Foundation  
8   Program fund only if the police department of the unit of government remains in  
9   compliance with the requirements of this section.
- 10 (3) Deputies employed by a sheriff's office shall be eligible to participate in the  
11 distribution of funds from the Law Enforcement Foundation Program fund  
12 regardless of participation by the sheriff.
- 13 (4) Failure to meet a deadline established in a policy adopted pursuant to subsection  
14 (1)(i) of this section for the retrieval or submission of evidence shall not be a basis  
15 for a dismissal of a criminal action or a bar to the admissibility of the evidence in a  
16 criminal action.

17       ➔Section 2. KRS 17.175 is amended to read as follows:

- 18 (1) A centralized database of DNA (deoxyribonucleic acid) identification records for  
19 convicted or adjudicated offenders, crime scene specimens, unidentified human  
20 remains, missing persons, and close biological relatives of missing persons shall be  
21 established in the Department of Kentucky State Police under the direction, control,  
22 and supervision of the Department of Kentucky State Police forensic laboratory.  
23 The established system shall be compatible with the procedures set forth in a  
24 national DNA identification index to ensure data exchange on a national level.
- 25 (2) The purpose of the centralized DNA database is to assist federal, state, and local  
26 criminal justice and law enforcement agencies within and outside the  
27 Commonwealth in the identification, detection, or exclusion of individuals who are

1 subjects of the investigation or prosecution of sex-related crimes, violent crimes, or  
2 other crimes and the identification and location of missing and unidentified persons.

3 (3) (a) The Department of Kentucky State Police forensic laboratory shall receive,  
4 analyze, and classify DNA samples received from the Department of  
5 Corrections, the Department of Juvenile Justice, and other sources, and shall  
6 file the DNA results in the centralized databases for law enforcement  
7 identification and statistical purposes. The department shall analyze and  
8 classify all sexual assault evidence collection kits it receives. In cases where a  
9 suspect has been identified, the department may give priority to analysis and  
10 classification of sexual assault evidence collection kits where the reference  
11 standard for comparison is provided with the kit. Except as provided in  
12 paragraph (e) of this subsection, by July 1, 2018, the average completion rate  
13 for this analysis and classification shall not exceed ninety (90) days, and by  
14 July 1, 2020, the average completion rate for this analysis and classification  
15 shall not exceed sixty (60) days.

16 (b) Failure to meet the completion time goals established in paragraph (a) of this  
17 subsection shall not be a basis for a dismissal of a criminal action or a bar to  
18 the admissibility of evidence.

19 (c) The Department of Kentucky State Police shall, by August 1 of each year,  
20 report to the Legislative Research Commission the yearly average completion  
21 rate for the immediately preceding five (5) fiscal years.

22 (d) With approval by the secretary of the Justice and Public Safety Cabinet in  
23 situations in which an equipment casualty necessitates the expedited  
24 acquisition or repair of laboratory equipment required for the analysis of  
25 evidence, the acquisition or repair shall be exempt from the Finance and  
26 Administration Cabinet's competitive bidding process for both acquisition and  
27 repair purposes. Each time the authority granted by this paragraph is used, the

1 equipment acquisition or repair shall be fully documented within thirty (30)  
2 days by the agency head in a written or electronic letter to the secretary of the  
3 Finance and Administration Cabinet, attached to an ordering or payment  
4 document in the state's procurement system, which shall include:

- 5 1. An explanation of the equipment acquired or repaired;
- 6 2. The name of the vendor selected;
- 7 3. The amount of procurement;
- 8 4. Other price quotations obtained; and
- 9 5. The basis for selection of the vendor.

10 (e) To the extent appropriated funds are insufficient to meet the average  
11 completion time goals established in paragraph (a) of this subsection, the  
12 Department of Kentucky State Police forensic laboratory shall no longer be  
13 required to meet the average completion time goals.

14 (4) DNA identification records produced from the samples are not public records but  
15 shall be confidential and used only for law enforcement purposes. DNA  
16 identification records shall be exempt from the provisions of KRS 61.870 to 61.884.

17 (5) *DNA identification records produced from evidence collected as a result of an*  
18 *examination performed under KRS 216B.400 that are voluntarily submitted*  
19 *solely for elimination purposes shall not be checked against or included in the*  
20 *centralized database created pursuant to this section or any other database.*

21 (6) A person whose DNA profile has been included in the data bank pursuant to this  
22 chapter may request expungement on the grounds that the conviction or  
23 adjudication on which the authority for including the DNA profile was based has  
24 been reversed and the case dismissed, or that the person successfully completed the  
25 pretrial diversion program under KRS 533.258 and the charges were dismissed-  
26 diverted. The Department of Kentucky State Police shall expunge all identifiable  
27 information in the data bank pertaining to the person and destroy all samples from



1 the person upon receipt of:

2 (a) A written request for expungement pursuant to this section; and

3 (b) Either:

4 1. A certified copy of the court order reversing and dismissing the  
5 conviction or adjudication; or

6 2. A certified copy of the court order deeming the charges dismissed-  
7 diverted.

8 ~~(7)~~~~(6)~~ The cabinet shall promulgate administrative regulations necessary to carry out  
9 the provisions of the DNA database identification system to include procedures for  
10 collection of DNA samples and the database system usage and integrity.

11 ~~(8)~~~~(7)~~ The Department of Kentucky State Police shall destroy all DNA samples that  
12 are not entered into the DNA database identification system.

13 ~~(9)~~~~(8)~~ Any person who disseminates, receives, or otherwise uses or attempts to use  
14 information in the DNA database identification system, knowing that such  
15 dissemination, receipt, or use is for a purpose other than authorized by this section,  
16 shall be guilty of a Class D felony.