

1 AN ACT relating to protective orders.

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

3 ➔Section 1. KRS 403.735 is amended to read as follows:

- 4 (1) Prior to or at a hearing on a petition for an order of protection:
- 5 (a) The court may obtain the respondent's Kentucky criminal and protective order
6 history and utilize that information to assess what relief and which sanctions
7 may protect against danger to the petitioner or other person for whom
8 protection is being sought, with the information so obtained being provided to
9 the parties in accordance with the Rules of Civil Procedure; and
- 10 (b) If the petitioner or respondent is a minor, the court shall inquire whether the
11 parties attend school in the same school system to assist the court in imposing
12 conditions in the order that have the least disruption in the administration of
13 education to the parties while providing appropriate protection to ***both***
14 ***parties***~~[the petitioner].~~
- 15 (2) (a) If the adverse party is not present at the hearing ordered pursuant to KRS
16 403.730 and has not been served, a previously issued emergency protective
17 order shall remain in place, and the court shall direct the issuance of a new
18 summons for a hearing set not more than fourteen (14) days in the future. If
19 service has not been made on the adverse party before that hearing or a
20 subsequent hearing, the emergency protective order shall remain in place, and
21 the court shall continue the hearing and issue a new summons with a new date
22 and time for the hearing to occur, which shall be within fourteen (14) days of
23 the originally scheduled date for the continued hearing. The court shall repeat
24 the process of continuing the hearing and reissuing a new summons until the
25 adverse party is served in advance of the scheduled hearing. If service has not
26 been made on the respondent at least seventy-two (72) hours prior to the
27 scheduled hearing, the court may continue the hearing no more than fourteen

1 (14) days in the future. In issuing the summons, the court shall simultaneously
2 transmit a copy of the summons or notice of its issuance and provisions to the
3 petitioner.

4 (b) The provisions of this section permitting the continuance of an emergency
5 protective order shall be limited to six (6) months from the issuance of the
6 emergency protective order. If the respondent has not been served within that
7 period, the order shall be rescinded without prejudice. Prior to the expiration
8 of the emergency protective order, the court shall provide notice to the
9 petitioner stating that, if the petitioner does not file a new petition, the order
10 shall be rescinded without prejudice.

11 ➔Section 2. KRS 403.740 is amended to read as follows:

12 (1) Following a hearing ordered under KRS 403.730, if a court finds by a
13 preponderance of the evidence that domestic violence and abuse has occurred and
14 may again occur, the court may issue a domestic violence order:

15 (a) Restraining the adverse party from committing further acts of domestic
16 violence and abuse[-:

17 1. ~~Committing further acts of domestic violence and abuse~~];

18 (b) Restraining both parties from:

19 1.~~[2.]~~ Any unauthorized contact or communication with each other~~[the~~
20 ~~petitioner]~~ or other person specified by the court;

21 2.~~[3.]~~ Approaching each other~~[the petitioner]~~ or another~~[other]~~ person
22 specified by the court within a distance specified in the order, not to
23 exceed five hundred (500) feet;

24 3.~~[4.]~~ Going to or within a specified distance of a specifically described
25 residence, school, or place of employment or area where such a place is
26 located; and

27 4.~~[5.]~~ Disposing of or damaging any of the property of the parties;

1 ~~(c)~~~~(b)~~ Directing or prohibiting any other actions that the court believes will be
2 of assistance in eliminating future acts of domestic violence and abuse, except
3 that the court shall not order the petitioner to take any affirmative action;

4 ~~(d)~~~~(e)~~ Directing that either or both of the parties receive counseling services
5 available in the community in domestic violence and abuse cases; and

6 ~~(e)~~~~(d)~~ Additionally, if applicable:

- 7 1. Directing the adverse party to vacate a residence shared by the parties to
8 the action;
- 9 2. Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.822,
10 grant temporary custody, subject to KRS 403.315; and
- 11 3. Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213,
12 award temporary child support.

13 (2) In imposing a location restriction described in subsection (1)~~(b)3.~~~~(a)4.~~ of this
14 section, the court shall:

- 15 (a) Afford the petitioner and respondent, if present, an opportunity to testify on
16 the issue of the locations and areas from which the respondent should or
17 should not be excluded;
- 18 (b) Only impose a location restriction where there is a specific, demonstrable
19 danger to the petitioner or other person protected by the order;
- 20 (c) Specifically describe in the order the locations or areas prohibited to the
21 respondent; and
- 22 (d) Consider structuring a restriction so as to allow the respondent transit through
23 an area if the respondent does not interrupt his or her travel to harass, harm, or
24 attempt to harass or harm the petitioner.

25 (3) When temporary child support is granted under this section, the court shall enter an
26 order detailing how the child support is to be paid and collected. Child support
27 ordered under this section may be enforced utilizing the same procedures as any

1 other child support order.

2 (4) A domestic violence order shall be effective for a period of time fixed by the court,
3 not to exceed three (3) years, and may be reissued upon expiration for subsequent
4 periods of up to three (3) years each. The fact that an order has not been violated
5 since its issuance may be considered by a court in hearing a request for a reissuance
6 of the order.

7 ➔Section 3. KRS 456.050 is amended to read as follows:

8 (1) Prior to or at a hearing on a petition for an interpersonal protective order:

9 (a) The court may obtain the respondent's Kentucky criminal and protective order
10 history and utilize that information to assess what relief and which sanctions
11 may protect against danger to the petitioner or other person for whom
12 protection is being sought, with the information so obtained being provided to
13 the parties in accordance with the Rules of Civil Procedure; and

14 (b) If the petitioner or respondent is a minor, the court shall inquire whether the
15 parties attend school in the same school system to assist the court in imposing
16 conditions in the order that have the least disruption in the administration of
17 education to the parties while providing appropriate protection to **both**
18 **parties**~~[the petitioner]~~.

19 (2) (a) If the adverse party is not present at the hearing ordered pursuant to KRS
20 456.040 and has not been served, a previously issued temporary interpersonal
21 protective order shall remain in place, and the court shall direct the issuance of
22 a new summons for a hearing set not more than fourteen (14) days in the
23 future. If service has not been made on the adverse party before that hearing or
24 a subsequent hearing, the temporary interpersonal protective order shall
25 remain in place, and the court shall continue the hearing and issue a new
26 summons with a new date and time for the hearing to occur, which shall be
27 within fourteen (14) days of the originally scheduled date for the continued

1 hearing. The court shall repeat the process of continuing the hearing and
 2 reissuing a new summons until the adverse party is served in advance of the
 3 scheduled hearing. If service has not been made on the respondent at least
 4 seventy-two (72) hours prior to the scheduled hearing, the court may continue
 5 the hearing no more than fourteen (14) days in the future. In issuing the
 6 summons, the court shall simultaneously transmit a copy of the summons or
 7 notice of its issuance and provisions to the petitioner.

8 (b) The provisions of this section permitting the continuance of an interpersonal
 9 protective order shall be limited to six (6) months from the issuance of the
 10 temporary interpersonal protective order. If the respondent has not been
 11 served within that period, the order shall be rescinded without prejudice. Prior
 12 to the expiration of the temporary interpersonal protective order, the court
 13 shall provide notice to the petitioner stating that, if the petitioner does not file
 14 a new petition, the order shall be rescinded without prejudice.

15 ➔Section 4. KRS 456.060 is amended to read as follows:

16 (1) Following a hearing ordered under KRS 456.040, if a court finds by a
 17 preponderance of the evidence that dating violence and abuse, sexual assault, or
 18 stalking has occurred and may again occur, the court may issue an interpersonal
 19 protective order:

20 (a) Restraining the adverse party from **committing further acts of domestic**
 21 **violence and abuse, stalking, or sexual assault**~~;~~

22 ~~1. Committing further acts of dating violence and abuse, stalking, or sexual~~
 23 ~~assault~~;

24 **(b) Restraining both parties from:**

25 ~~1.~~^{2.} Any unauthorized contact or communication with **each other**~~the~~
 26 ~~petitioner~~ or other person specified by the court;

27 ~~2.~~^{3.} Approaching **each other**~~the petitioner~~ or **another**~~other~~ person

1 specified by the court within a distance specified in the order, not to
2 exceed five hundred (500) feet;

3 ~~3.4.~~ Going to or within a specified distance of a specifically described
4 residence, school, or place of employment or area where such a place is
5 located; and

6 ~~4.5.~~ Disposing of or damaging any of the property of the parties;

7 ~~(c)(b)~~ Directing or prohibiting any other actions that the court believes will be
8 of assistance in eliminating future acts of dating violence and abuse, stalking,
9 or sexual assault, except that the court shall not order the petitioner to take any
10 affirmative action; and

11 ~~(d)(e)~~ Directing that either or both of the parties receive counseling services
12 available in the community in dating violence and abuse cases.

13 (2) In imposing a location restriction described in subsection (1)~~(b)3.(a)4.~~ of this
14 section, the court shall:

15 (a) Afford the petitioner and respondent, if present, an opportunity to testify on
16 the issue of the locations and areas from which the respondent should or
17 should not be excluded;

18 (b) Only impose a location restriction where there is a specific, demonstrable
19 danger to the petitioner or other person protected by the order;

20 (c) Specifically describe in the order the locations or areas prohibited to the
21 respondent; and

22 (d) Consider structuring a restriction so as to allow the respondent transit through
23 an area if the respondent does not interrupt his or her travel to harass, harm, or
24 attempt to harass or harm the petitioner.

25 (3) An interpersonal protective order shall be effective for a period of time fixed by the
26 court, not to exceed three (3) years, and may be reissued upon expiration for
27 subsequent periods of up to three (3) years each. The fact that an order has not been

1 violated since its issuance may be considered by a court in hearing a request for a
2 reissuance of the order.

3 ➔Section 5. KRS 403.730 is amended to read as follows:

4 (1) (a) The court shall review a petition for an order of protection immediately upon
5 its filing. If the review indicates that domestic violence and abuse exists, the
6 court shall summons the parties to an evidentiary hearing not more than
7 fourteen (14) days in the future. If the review indicates that such a basis does
8 not exist, the court may consider an amended petition or dismiss the petition
9 without prejudice.

10 (b) Service of the summons and hearing order under this subsection shall be made
11 upon the adverse party personally and may be made in the manner and by the
12 persons authorized to serve subpoenas under Rule 45.03 of the Rules of Civil
13 Procedure. A summons may be reissued if service has not been made on the
14 adverse party by the fixed court date and time.

15 (2) (a) If the review under this section also indicates the presence of an immediate
16 and present danger of domestic violence and abuse, the court shall, **upon the**
17 **filing of the petition**~~[upon proper motion]~~, issue ex parte an emergency
18 protective order that:

19 1. Authorizes relief appropriate to the situation utilizing the alternatives set
20 out in KRS 403.740, other than awarding temporary support or
21 counseling;

22 **2. Sets forth which communications are authorized and which are**
23 **unauthorized;**

24 **3. Restricts the parties from approaching each other within a distance**
25 **specified in the order, not to exceed five hundred (500) feet;**

26 **4. Allows the adverse party to retrieve his or her personal belongings**
27 **from the parties' shared residence;**

1 ~~5.12~~ Expires upon the conclusion of the evidentiary hearing required by this
 2 section unless extended or withdrawn by subsequent order of the court;
 3 and

4 ~~6.13~~ Does not order or refer the parties to mediation unless requested by the
 5 petitioner, and the court finds that:

6 a. The petitioner's request is voluntary and not the result of coercion;
 7 and

8 b. Mediation is a realistic and viable alternative to or adjunct to the
 9 issuance of an order sought by the petitioner.

10 (b) If an order is not issued under this subsection, the court shall note on the
 11 petition, for the record, any action taken or denied and the reason for it.

12 ➔Section 6. KRS 456.040 is amended to read as follows:

13 (1) (a) The court shall review a petition for an interpersonal protective order
 14 immediately upon its filing. If the review indicates that dating violence and
 15 abuse, stalking, or sexual assault exists, the court shall summons the parties to
 16 an evidentiary hearing not more than fourteen (14) days in the future. If the
 17 review indicates that such a basis does not exist, the court may consider an
 18 amended petition or dismiss the petition without prejudice.

19 (b) Service of the summons and hearing order under this subsection shall be made
 20 upon the adverse party personally and may be made in the manner and by the
 21 persons authorized to serve subpoenas under Rule 45.03 of the Rules of Civil
 22 Procedure. A summons may be reissued if service has not been made on the
 23 adverse party by the fixed court date and time.

24 (2) (a) If the review under this section also indicates the presence of an immediate
 25 and present danger of dating violence and abuse, sexual assault, or stalking,
 26 the court shall, **upon the filing of the petition**~~[upon proper motion]~~, issue ex
 27 parte a temporary interpersonal protective order that:

- 1 1. Authorizes relief appropriate to the situation utilizing the alternatives set
- 2 out in KRS 456.060;
- 3 **2. Sets forth which communications are authorized and which are**
- 4 **unauthorized;**
- 5 **3. Restricts the parties from approaching each other within a distance**
- 6 **specified in the order, not to exceed five hundred (500) feet;**
- 7 **4. Allows the adverse party to retrieve his or her personal belongings**
- 8 **from the parties' shared residence;**
- 9 ~~5.~~^[2.] Expires upon the conclusion of the evidentiary hearing required by this
- 10 section unless extended or withdrawn by subsequent order of the court;
- 11 and
- 12 ~~6.~~^[3.] Does not order or refer the parties to mediation unless requested by the
- 13 petitioner, and the court finds that:
- 14 a. The petitioner's request is voluntary and not the result of coercion;
- 15 and
- 16 b. Mediation is a realistic and viable alternative to or adjunct to the
- 17 issuance of an order sought by the petitioner.
- 18 (b) If an order is not issued under this subsection, the court shall note on the
- 19 petition, for the record, any action taken or denied and the reason for it.