

1 AN ACT relating to hate crimes.

2 WHEREAS, the purpose of this Act is to provide increased penalties for those  
3 convicted of crimes in which the victim was selected because of his or her actual or  
4 perceived race, color, ethnicity, national origin, religion, mental or physical disability,  
5 gender identity or expression, or sexual orientation; and

6 WHEREAS, the commission of hate crimes remains a prevalent issue to be  
7 addressed in the Commonwealth of Kentucky; and

8 WHEREAS, on October 24, 2018, the Commonwealth of Kentucky was devastated  
9 by the tragic loss of life at the Jeffersontown Kroger as the result of a hate crime; and

10 WHEREAS, according to the Federal Bureau of Investigation's 2017 Hate Crime  
11 Statistics Report, law enforcement officials reported 378 hate crime incidents in the  
12 Commonwealth of Kentucky; and

13 WHEREAS, according to the Federal Bureau of Investigation's 2017 Hate Crime  
14 Statistics Report, the number of hate crimes reported by law enforcement officers  
15 increased by 83.5 percent in the Commonwealth of Kentucky from the years of 2016 to  
16 2017; and

17 WHEREAS, the Commonwealth of Kentucky statutorily requires the reporting of  
18 crimes which appear to be the result of, or reasonably related to, race, color, religion, sex,  
19 or national origin; and

20 WHEREAS, the Commonwealth of Kentucky statutorily requires law enforcement  
21 and certified peace officers to undergo training relating to the investigation of, response  
22 to, and reporting of hate crimes;

23 NOW, THEREFORE,

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

25 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO  
26 READ AS FOLLOWS:

27 **(1) A defendant shall be subject to an enhanced term of imprisonment under**

1 subsection (3) of this section if:

2 (a) 1. He or she is convicted of a crime under KRS Chapter 507, 507A, 508,  
3 509, 510, or 525, or of the attempt to commit a crime under those  
4 chapters; and

5 2. It is proven beyond a reasonable doubt that the defendant  
6 intentionally selected the person against whom the crime was  
7 committed because, in whole or in part, of that person's actual or  
8 perceived race, color, ethnicity, national origin, religion, mental or  
9 physical disability, gender identity or expression, or sexual  
10 orientation; or

11 (b) 1. He or she is convicted of a crime under KRS 512.020, 512.030,  
12 512.040, 513.020, 513.030, or 513.040; and

13 2. It is proven beyond a reasonable doubt that the defendant  
14 intentionally defaced, destroyed, damaged, or started a fire or  
15 explosion on property associated with a person because, in whole or in  
16 part, of that person's actual or perceived race, color, ethnicity,  
17 national origin, religion, mental or physical disability, gender identity  
18 or expression, or sexual orientation.

19 (2) Unless a jury trial has been waived, when a defendant is convicted of a crime  
20 outlined in subsection (1) of this section and the defendant is charged with  
21 intentionally committing the underlying offense because of a person's actual or  
22 perceived race, color, ethnicity, national origin, religion, mental or physical  
23 disability, gender identity or expression, or sexual orientation:

24 (a) The court shall conduct a hearing, separate from the proceeding that  
25 resulted in the defendant's conviction for the underlying offense, to  
26 determine whether the person intentionally committed the underlying  
27 offense because of a person's actual or perceived race, color, ethnicity,

1           *national origin, religion, mental or physical disability, gender identity or*  
2           *expression, or sexual orientation;*

3           *(b) The hearing shall be conducted by the same court and jury that convicted*  
4           *the defendant of the underlying offense, unless the court for good cause*  
5           *discharges that jury and impanels a new jury for that purpose; and*

6           *(c) The jury shall determine:*

7           *1. Whether, beyond a reasonable doubt, the person intentionally*  
8           *committed the underlying offense because of a person's actual or*  
9           *perceived race, color, ethnicity, national origin, religion, mental or*  
10           *physical disability, gender identity or expression, or sexual*  
11           *orientation; and*

12           *2. The enhanced term of imprisonment to be imposed pursuant to*  
13           *subsection (3) of this section, if any.*

14           *(3) When a defendant has been found to have intentionally committed an offense*  
15           *outlined in subsection (1) of this section against person because of that person's*  
16           *actual or perceived race, color, ethnicity, national origin, religion, mental or*  
17           *physical disability, gender identity or expression, or sexual orientation, his or her*  
18           *sentence for the underlying offense shall be enhanced as follows:*

19           *(a) If the underlying offense is a Class A or B misdemeanor, the term of*  
20           *imprisonment shall be increased by at least half of the maximum*  
21           *imprisonment sentence for that misdemeanor and the fine shall be at least*  
22           *half of the maximum fine amount for that misdemeanor as provided in KRS*  
23           *534.040;*

24           *(b) If the underlying offense is a Class D felony, the term of imprisonment*  
25           *shall be increased by one (1) to five (5) years;*

26           *(c) If the underlying offense is a Class C felony, the term of imprisonment shall*  
27           *be increased by five (5) to ten (10) years; and*

1           *(d) If the underlying offense is a Class A or B felony, the term of imprisonment*  
2           *shall be increased by ten (10) to twenty (20) years.*

3           *(4) Any defendant who receives an enhanced term of imprisonment under this*  
4           *section shall not be eligible for probation, shock probation, conditional*  
5           *discharge, parole, or any other form of early release.*

6           ➔Section 2. KRS 15.334 is amended to read as follows:

- 7           (1) The Kentucky Law Enforcement Council shall approve mandatory training subjects  
8           to be taught to all students attending a law enforcement basic training course that  
9           include but are not limited to:
- 10           (a) Abuse, neglect, and exploitation of the elderly and other crimes against the  
11           elderly, including the use of multidisciplinary teams in the investigation and  
12           prosecution of crimes against the elderly;
- 13           (b) The dynamics of domestic violence, pediatric abusive head trauma, as defined  
14           in KRS 620.020, child physical and sexual abuse, and rape; child  
15           development; the effects of abuse and crime on adult and child victims,  
16           including the impact of abuse and violence on child development; legal  
17           remedies for protection; lethality and risk issues; profiles of offenders and  
18           offender treatment; model protocols for addressing domestic violence, rape,  
19           pediatric abusive head trauma, as defined in KRS 620.020, and child abuse;  
20           available community resources and victim services; and reporting  
21           requirements. This training shall be developed in consultation with legal,  
22           victim services, victim advocacy, and mental health professionals with  
23           expertise in domestic violence, child abuse, and rape. Training in recognizing  
24           pediatric abusive head trauma may be designed in collaboration with  
25           organizations and agencies that specialize in the prevention and recognition of  
26           pediatric abusive head trauma approved by the secretary of the Cabinet for  
27           Health and Family Services;

- 1 (c) Human immunodeficiency virus infection and acquired immunodeficiency  
2 virus syndrome;
- 3 (d) Identification and investigation of, responding to, and reporting bias-related  
4 crime, victimization, or intimidation that is a result of or reasonably related to  
5 race, color, ethnicity,~~[religion, sex, or]~~ national origin, religion, mental or  
6 physical disability, gender identity or expression, or sexual orientation;
- 7 (e) The characteristics and dynamics of human trafficking, state and federal laws  
8 relating to human trafficking, the investigation of cases involving human  
9 trafficking, including but not limited to screening for human trafficking, and  
10 resources for assistance to the victims of human trafficking;
- 11 (f) Beginning January 1, 2017, the council shall require that a law enforcement  
12 basic training course include at least eight (8) hours of training relevant to  
13 sexual assault; and
- 14 (g) Education on female genital mutilation as defined in KRS 508.125, including  
15 the risk factors associated with female genital mutilation, the criminal  
16 penalties for committing female genital mutilation, and the psychological and  
17 health effects on a victim of female genital mutilation.
- 18 (2) (a) The council shall develop and approve mandatory in-service training courses  
19 to be presented to all certified peace officers. The council may promulgate  
20 administrative regulations in accordance with KRS Chapter 13A setting forth  
21 the deadlines by which all certified peace officers shall attend the mandatory  
22 in-service training courses.
- 23 (b) Beginning January 1, 2017, the council shall establish a forty (40) hour sexual  
24 assault investigation training course. After January 1, 2019, agencies shall  
25 maintain officers on staff who have completed the forty (40) hour sexual  
26 assault investigation training course in accordance with the following:
- 27 1. Agencies with more than ten (10) but fewer than twenty-one (21) full-

- 1           time officers shall maintain one (1) officer who has completed the forty  
2           (40) hour sexual assault investigation training course;
- 3           2. Agencies with twenty-one (21) or more but fewer than fifty-one (51)  
4           full-time officers shall maintain at least two (2) officers who have  
5           completed the forty (40) hour sexual assault investigation training  
6           course; and
- 7           3. Agencies with fifty-one (51) or more full-time officers shall maintain at  
8           least four (4) officers who have completed the sexual assault  
9           investigation course.
- 10          (c) An agency shall not make an officer directly responsible for the investigation  
11          or processing of sexual assault offenses unless that officer has completed the  
12          forty (40) hour sexual assault investigation training course.
- 13          (d) The council may, upon application by any agency, grant an exemption from  
14          the training requirements set forth in paragraph (b) of this subsection if that  
15          agency, by limitations arising from its scope of authority, does not conduct  
16          sexual assault investigations.
- 17          (e) Any agency failing to comply with paragraph (b) or (c) of this subsection  
18          shall, from the date the noncompliance commences, have one (1) year to  
19          reestablish the minimum number of trained officers required.
- 20          (3) The Justice and Public Safety Cabinet shall provide training on the subjects of  
21          domestic violence and abuse and may do so utilizing currently available technology.  
22          All certified peace officers shall be required to complete this training at least once  
23          every two (2) years.
- 24          (4) The council shall promulgate administrative regulations in accordance with KRS  
25          Chapter 13A to establish mandatory basic training and in-service training courses.
- 26          ➔Section 3. KRS 17.1523 is amended to read as follows:
- 27          (1) The uniform offense report shall contain provisions for obtaining information as to

1           whether or not specific crimes appear from their facts and circumstances to be  
2           caused as a result of or reasonably related to race, color, religion, sex, or national  
3           origin.

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

9       (3) The Justice and Public Safety Cabinet shall, annually, as a part of the crime reports  
10          report on crimes which appear to have been caused by the factors cited in  
11          subsections (1) and (2) of this section.

12          ➔Section 4. The following KRS sections are repealed:

13       49.320 Victim of hate crime deemed victim of criminally injurious conduct.

14       532.031 Hate crimes -- Finding -- Effect -- Definitions.

15          ➔Section 5. The restrictions of KRS 6.945(1) shall not apply to Sections 1 to 3 of  
16       this Act.