

Kentucky Statutes Relating to Domestic Violence, Assault, Stalking, and Sex Offenses

The Kentucky Revised Statutes, updated to include enactments through the 2004 Regular Session, are found online at <http://lrc.ky.gov/krs/titles.htm>, a page listing the titles and chapters by number and name.

The first statute listed in this document is not from the online KRS, but is legislation that had not yet been incorporated into the online statutes at the time this list was compiled. We received information about this new legislation from the Kentucky Domestic Violence Association, who provided much assistance in finding statutes related to domestic violence. The version printed was downloaded on 4/28/05 from the Kentucky legislature's site at <http://www.lrc.ky.gov/record/05rs/HB298/bill.doc> (pp. 21-31).

Excerpts from HB 298 from the 2005 Regular Session creating a new Chapter 209A, adding to Chapter 209 on Protection of Adults sections on victims of violence, abuse or neglect inflicted by a spouse

SECTION 1. KRS CHAPTER 209A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The purpose of this chapter is to identify victims of domestic violence, abuse, or neglect inflicted by a spouse, and to provide for the protection of adults who choose to access those services. A victim of domestic violence who has a mental or physical disability or who cannot carry out the activities of daily living or protect himself or herself without the assistance of others may be served under the provisions of KRS Chapter 209.

SECTION 2. A NEW SECTION OF KRS CHAPTER 209A IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Secretary" means the secretary of the Cabinet for Families and Children;

(2) "Cabinet" means the Cabinet for Families and Children;

(3) "Department" means the Department for Community Based Services of the Cabinet for Families and Children;

(4) "Adult" means a person without regard to age who is the victim of abuse or neglect inflicted by a spouse;

(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused or neglected. These services may include, but are not limited to conducting investigations of complaints of possible abuse or neglect to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action, including action under KRS Chapter 209, and social services aimed at preventing and remedying abuse or neglect;

- (6) “Abuse” means the infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm or pain, including mental injury;
- (7) “Investigation” shall include, but is not limited to, a personal interview with the individual reported to be abused or neglected. When abuse or neglect is allegedly the cause of death, a coroner’s or doctor’s report shall be examined as part of the investigation;
- (8) “Records” means the medical or mental health records of the adult that are in the possession of any individual, hospital, firm, corporation, or other facility if necessary to complete the investigation mandated in subsection (5) of Section 3 of this Act; and
- (9) “Neglect” means a situation in which a person deprives his spouse of reasonable services to maintain health and welfare.
- (10) “Authorized agency” means:
- (a) The Cabinet for Health Services and the Cabinet for Families and Children;
 - (b) A local law enforcement agency or the Kentucky State Police; or
 - (c) The office of a Commonwealth’s attorney or county attorney.

SECTION 3. A NEW SECTION OF KRS CHAPTER 209A IS CREATED TO READ AS FOLLOWS:

- (1) The secretary may promulgate administrative regulations in accordance with KRS Chapter 13A to effect the purposes of this chapter. The secretary may offer or cause to be offered protective services for safeguarding the welfare of an adult who has experienced abuse or neglect inflicted or caused by a spouse. While the cabinet shall continue to have primary responsibility for investigation and the provision of protective services under this chapter, nothing in this chapter shall restrict the powers of another authorized agency to act under its statutory authority.
- (2) Any person, including but not limited to physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, mental health professional, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse or neglect, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.
- (3) An oral or written report shall be made immediately to the cabinet upon knowledge of suspected abuse or neglect of an adult.
- (4) Any person making such a report shall provide the following information, if known:
- (a) The name and address of the adult;
 - (b) The age of the adult;

- (c) The nature and extent of the abuse or neglect, including any evidence of previous abuse or neglect;
- (d) The identity of the perpetrator, if known;
- (e) The identity of the complainant, if possible; and
- (f) Any other information that the person believes might be helpful in establishing the cause of abuse or neglect.
- (5) Upon receipt of the report, the cabinet shall take the following action:
- (a) Notify the appropriate law enforcement agency, if indicated;
- (b) Initiate an investigation of the complaint; and
- (c) Make a written report of the initial findings together with a recommendation for further action, if indicated.
- (6) Any representative of the cabinet may enter any health facility or health service licensed by the cabinet at any reasonable time to carry out the cabinet's responsibilities under this chapter.
- (7) Any representative of the cabinet actively involved in the conduct of an abuse or neglect investigation under subsection (5) of this section shall also be allowed access to the mental and physical health records of the adult which are in the possession of any individual, hospital, or other facility if necessary to complete the investigation mandated by this section.
- (8) Any representative of the cabinet may with consent of the adult enter any private premises where any adult alleged to be abused or neglected is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter.
- (9) If a determination has been made that protective services are necessary when indicated by the investigation, the cabinet shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.
- (10) In the event the adult elects to accept the protective services to be provided by the cabinet, no other person shall interfere with the cabinet when rendering such services.
- (11) Anyone knowingly or wantonly violating the provisions of subsection (2) of this section shall be guilty of a Class B misdemeanor and penalized in accordance with KRS 532.090. Each violation shall constitute a separate offense.

SECTION 4. A NEW SECTION OF KRS CHAPTER 209A IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate administrative regulations for the provision of general adult services to include uniform criteria for adult intake and appropriate and necessary service provision.

SECTION 5. A NEW SECTION OF KRS CHAPTER 209A IS CREATED TO READ AS FOLLOWS:

Anyone acting upon reasonable cause in the making of any report or investigation pursuant to this chapter, including representatives of the cabinet in the reasonable performance of their duties in good faith, and within the scope of their authority, shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or investigation and such immunity shall apply to those who render protective services in good faith pursuant to the consent of the adult.

SECTION 6. A NEW SECTION OF KRS CHAPTER 209A IS CREATED TO READ AS FOLLOWS:

Neither the psychiatrist-patient privilege nor the husband-wife privilege shall be a ground for excluding evidence regarding the abuse, neglect, or exploitation of an adult or the cause thereof in any judicial proceeding resulting from a report pursuant to this chapter.

SECTION 7. A NEW SECTION OF KRS CHAPTER 209A IS CREATED TO READ AS FOLLOWS:

All records, requests for services, and reports that contain information that identifies a current or former client of a domestic violence program are confidential and shall not be disclosed by any person except as provided by law. The cabinet shall have access to client records, requests for services, and reports relating to any domestic violence program for the limited purpose of monitoring the program.

SECTION 8. A NEW SECTION OF KRS CHAPTER 209A IS CREATED TO READ AS FOLLOWS:

All information obtained by the department staff or its delegated representative as a result of an investigation made pursuant to this chapter shall not be divulged to anyone except:

- (1) Persons suspected of abuse or neglect, provided that in such cases names of informants may be withheld, unless ordered by the court;
- (2) Persons within the department or cabinet with a legitimate interest or responsibility related to the case;
- (3) Other medical, psychological, social service agency, law enforcement, or other authorized agency that has a legitimate interest in the case;
- (4) Cases in which a court orders the release of the information; and
- (5) The alleged abused or neglected person.

Section 9. KRS 209.160 is amended to read as follows:

- (1) There is hereby created a trust and agency account in the State Treasury to be known as the **domestic violence**[spouse abuse] shelter fund. Each county clerk shall remit to the fund, by the tenth of the month, ten dollars (\$10) from each twenty-four dollars (\$24) collected during the previous month from the issuance of marriage licenses. The fund shall be administered by the Revenue Cabinet. The Cabinet for Families and Children shall use the funds for the purpose of providing protective shelter services for **domestic violence**[spouse abuse] victims.

(2) The Cabinet for Families and Children shall designate one (1) nonprofit corporation in each area development district to serve as the primary service provider and regional planning authority for domestic violence shelter, crisis, and advocacy services in the district in which the designated provider is located.

**237.110 License to carry concealed deadly weapon –
Criteria – Suspension or revocation – Prohibitions – Reciprocity –
Reports – Requirements for training classes.**

(1) The Department of State Police is authorized to issue licenses to carry concealed firearms or other deadly weapons to persons qualified as provided in this section. The Department of State Police or the Administrative Office of the Courts shall conduct a record check, covering all offenses and conditions which are required under 18 U.S.C. sec. 922(g) and this section, in the manner provided by 18 U.S.C. sec. 922(s). Licenses shall be valid throughout the state for a period of five (5) years from the date of issuance. Any person in compliance with the terms of the license may carry a concealed firearm or other deadly weapon or combination of firearms and other deadly weapons on or about his person. The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the District Court.

(2) The Department of State Police, following the record check required by subsection (1) of this section, shall issue a license if the applicant:

(a) 1. Is a resident of the state and has been a resident for six (6) months or longer immediately preceding the filing of the application; or 2. Is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky, and who has been assigned to a posting in the Commonwealth for six (6) months or longer immediately preceding the filing of the application;

(b) Is twenty-one (21) years of age or older;

(c) Is not ineligible to possess a firearm pursuant to 18 U.S.C. sec. 922(d)(1) or (g) or KRS 527.040;

(d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within a three (3) year period immediately preceding the date on which the application is submitted;

(e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding his application or if the applicant has been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(f) Demonstrates competence with a firearm by completion of a firearms safety or training course or class offered or approved by the Department of Criminal Justice Training.

Classes presented pursuant to this paragraph shall include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, handgun marksmanship principles, and actual range firing of a handgun in a safe manner. Classes presented pursuant to this paragraph shall include information on laws relating to firearms as described in KRS Chapters 237 and 527 and the law of the use of force as described in KRS Chapter 503. The Department of Criminal Justice Training shall promulgate uniform administrative regulations concerning the certification and decertification of all firearms instructors practicing in the Commonwealth of Kentucky. Notwithstanding any other provision of the Kentucky Revised Statutes, no person shall qualify as having demonstrated competence with a firearm pursuant to this subsection, unless certified by a governmental agency of the Commonwealth of Kentucky, or of the federal government. The Administrative Office of the Courts shall publish and make available, at no cost, information in a manner suitable for distribution to class participants. A legible photocopy of a certificate of completion of any of the courses or classes or a notarized affidavit from the instructor, school, club, organization, or group that conducts or teaches the course or class attesting to the completion of the course or class by the applicant shall constitute evidence of qualification under this paragraph. Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky

Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement;

(g) Has not been adjudicated an incompetent under KRS Chapter 202B or has waited three (3) years from the date his competency was restored by the court order under KRS Chapter 202B; and

(h) Has not been involuntarily committed to a mental institution pursuant to KRS Chapter 202A, unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of three (3) years.

(3) The Department of State Police may deny a license if the applicant has been found guilty of a violation of KRS 508.030 or 508.080 within the three (3) year period prior to the date on which the application is submitted or may revoke a license if the licensee has been found guilty of a violation of KRS 508.030 or 508.080 within the preceding three (3) years.

(4) The Department of State Police shall deny, suspend, or revoke a license to carry a concealed deadly weapon upon written notice by the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, or for failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings.

(5) The application for a permit, or renewal of a permit, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars (\$60) shall be presented to the office of the sheriff of the county in which the applicant resides. A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times

and all locations within the Commonwealth pursuant to KRS 527.020 or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees. The sheriff shall transmit the application and accompanying material to the Department of State Police within five (5) working days. Twenty dollars (\$20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars (\$20) shall be sent to the Department of State Police with the application. Ten dollars (\$10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of State Police by administrative regulation which shall only include:

- (a) The name, address, place and date of birth, gender, and Social Security number of the applicant;
 - (b) A statement that, to the best of his knowledge, the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;
 - (c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;
 - (d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self defense in Kentucky; and
 - (e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.
- (6) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:
- (a) A completed application as described in subsection (5) of this section;
 - (b) A recent color photograph of the applicant, as prescribed by administrative regulation; and
 - (c) A photocopy of a certificate or an affidavit or document as described in subsection (2)(f) of this section.
- (7) The Department of State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection (6) of this section, either:
- (a) Issue the license; or
 - (b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (2) or (3) of this section. If the Department of State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall

further be informed of the right to seek de novo review of the denial in the District Court of his place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.

(8) The Department of State Police shall maintain an automated listing of licenseholders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky law enforcement agencies. Except as provided in this subsection, information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. Requests for information to be provided to any requester other than a bona fide law enforcement agency which has direct access to the Law Enforcement Information Network of Kentucky shall be made, in writing, directly to the commissioner of the Department of State Police, together with the fee required for the providing of the information. The Department of State Police shall, upon proper application and the payment of the required fee, provide to the requester in hard copy form only, a list of names of all holders in the Commonwealth of a license to carry a concealed deadly weapon. No identifying information other than the name shall be provided, and information for geographic areas or other subdivisions of any type from the list shall not be provided and shall be confidential. The fee to be charged shall be the same as for other public records provided by the Department of State Police. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of State Police, shall provide any information not entitled to it by law. The names of all persons, other than law enforcement agencies and peace officers, requesting information under this section shall be a public record.

(9) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss or destruction of a license, the licensee shall notify the Department of State Police of the loss or destruction. Failure to notify the Department of State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25) payable to the clerk of the District Court. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.

(10) If a license is lost or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars (\$15) to the Department of State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of State Police that the license has been lost or destroyed.

(11) A license issued under this section shall be suspended or revoked if the licensee becomes ineligible to be issued a license under the criteria set forth in subsection (2)(a), (c), (d), (e), (f), or (h) of this section. When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the

suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.

(12) Not less than ninety (90) days prior to the expiration date of the license, the Department of State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of State Police. The licensee may renew his license on or before the expiration date by filing with the sheriff of his county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and the required renewal fee. The license shall be renewed to a qualified applicant upon receipt of the completed renewal application and appropriate payment of fees. When a licensee makes application for a renewal of his or her license, neither the sheriff nor the Department of State Police shall require a surrender of the license until the new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his license by paying, in addition to the license fees, a late fee of fifteen dollars (\$15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (5), (6), and (7) of this section.

(13) No license issued pursuant to this section shall authorize any person to carry a concealed firearm into:

- (a) Any police station or sheriff's office;
- (b) Any detention facility, prison, or jail;
- (c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;
- (d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he is a member;
- (e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;
- (f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;
- (g) An area of an airport to which access is controlled by the inspection of persons and property; or

(h) Any place where the carrying of firearms is prohibited by federal law.

(14) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

(15) All moneys collected by the Department of State Police pursuant to this section shall be used to administer the provisions of this section. By March 1 of each year, the Department of State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section and KRS 237.115, 244.125, 527.020, and 527.070.

(16) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.

(17) (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his license shall be considered as valid in Kentucky.

(b) The Department of State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every six (6) months thereafter, make written inquiry of the concealed

deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each six (6) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.

(18) By March 1 of each year, the Department of State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.

(19) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:

(a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(c) Each concealed deadly weapon instructor or instructor trainer shall notify the Department of Criminal Justice Training not less than fourteen (14) days prior to the beginning of concealed deadly weapon applicant or concealed deadly weapon instructor training of the time, date, and location at which the class will be conducted. The department, upon the request of a firearms instructor trainer or certified firearms instructor, may permit a class to begin on less than fourteen (14) days' notice. The notice need not contain the names of the students. The notice may be made by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the application. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent;

(d) Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of Criminal Justice Training with a class roster indicating which students enrolled but did not successfully complete the class, and which students enrolled and successfully completed the class which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, email, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent;

(e) An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;

(f) An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her license. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon class;

(g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer “yes” or “no” to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than thirty (30) days after its receipt. Failure to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the returned form, is determined by the Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall be grounds for the Department of State Police to revoke the person’s concealed deadly weapon license, following a hearing conducted pursuant to KRS Chapter 13B, at which hearing the person is found to have violated the provisions of this section or who has been found not to have received the training required by law;

(h) The department shall randomly inspect certified firearms instructor classes being conducted by firearms instructor trainers and shall randomly inspect applicant classes being conducted by firearms instructor trainers or certified firearms instructors to ascertain if the class is being conducted in conformity to the provisions of applicable statutes and administrative regulations and that the paperwork in the class matches the paperwork ultimately submitted by the firearms instructor trainer or certified firearms instructor for that

same class. The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:

1. The number of random inspections;
2. The results of those inspections;
3. The number of deficiencies noted;
4. The nature of the deficiencies noted;
5. If a deficiency was noted, the categories of action taken by the department to either correct the deficiency or discipline the instructor, or a combination thereof;
6. The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;
7. The reasons for the imposition of suspensions, revocations, denials, or other discipline; and
8. Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process;
 - (i) If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of State Police as a matter of law;
 - (j) If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and
 - (k) The provisions of this section shall be deemed to be retroactive to March 1, 2002, and the following shall be in effect:
 1. Action to eliminate the firearms instructor trainer program as done by emergency administrative regulation is rescinded, the program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor;
 2. The Kentucky State Police may revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted pursuant to KRS Chapter 13B. Any action taken by the Kentucky State Police, other than revoking a permit for voluntary admission of nonreceipt of training or receipt of insufficient training to revoke a concealed deadly weapon license of a person suspected of nonreceipt of training or receipt of insufficient training, between March 1, 2002, and July 15, 2002, is suspended until the conduct of a KRS Chapter 13B hearing after July 15, 2002; and
 3. Any person who has received a training affidavit requiring the person to verify training conducted during a firearms instructor course or applicant course from the Department of Criminal Justice Training between March 1, 2002, and July 15, 2002, shall have the time to

respond to the training affidavit extended to August 1, 2002. The department shall notify each person who has not, as of July 15, 2002, returned his or her training affidavit of the extension of time to file the affidavit.

Effective: July 13, 2004

History: Amended 2004 Ky. Acts ch. 86, sec. 1, effective July 13, 2004. -- Amended 2002 Ky. Acts ch. 368, sec. 2, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 455, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 417, sec. 1, effective July 15, 1998; ch. 494, sec. 1, effective July 15, 1998; and ch. 606, sec. 136, effective July 15, 1998. -- Created 1996 Ky. Acts ch. 119, sec. 1, effective October 1, 1996.

Legislative Research Commission Note (7/15/96). 1996 Ky. Acts ch. 119, sec. 6 provides, “With respect to the training requirements of [this statute], [this statute] shall be deemed to be retroactive, and training completed prior to [October 1, 1996] may be used and shall be deemed to satisfy the training requirements of [this statute].”

403.036 Mediation not to be ordered unless conditions are met.

In any court proceeding conducted pursuant to KRS 403.010 to 403.350, if there is a finding of domestic violence and abuse, as defined in KRS 403.720, the court shall not order mediation unless requested by the victim of the alleged domestic violence and abuse, and the court finds that:

- (1) The victim’s request is voluntary and not the result of coercion; and
- (2) Mediation is a realistic and viable alternative to or adjunct to the issuance of an order sought by the victim of the alleged domestic violence and abuse.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 99, sec. 15, effective July 15, 1996.

403.715 Interpretation of KRS 403.715 to 403.785 by court.

KRS 403.715 to 403.785 shall be interpreted by the courts of the Commonwealth of Kentucky to effectuate the following express legislative purposes:

- (1) To allow persons who are victims of domestic violence and abuse to obtain effective, short-term protection against further violence and abuse in order that their lives will be as secure and as uninterrupted as possible;
- (2) To expand the ability of law enforcement officers to effectively respond to situations involving domestic violence and abuse so as to prevent further such incidents and to provide assistance to the victims;
- (3) To provide peace officers with the authority to immediately apprehend and charge for violation of a protective order any person whom the officer has probable cause to believe has violated an order of protection issued under KRS 403.740 or 403.750 and to provide courts with the authority to conduct contempt of court proceedings for these violations;

(4) To provide for the collection of data concerning incidents of domestic violence and abuse in order to develop a comprehensive analysis of the incidence and causes of such violence and abuse; and

(5) Nothing in KRS 403.715 to 403.785 shall be interpreted to repeal or supplant any duties, responsibilities, services, or penalties under KRS Chapters 209 or 620.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 172, sec. 1, effective July 14, 1992. – Created 1984 Ky. Acts ch. 152, sec. 1, effective July 13, 1984.

403.720 Definitions for KRS 403.715 to 403.785.

As used in KRS 403.715 to 403.785:

(1) “Domestic violence and abuse” means physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple;

(2) “Family member” means a spouse, including a former spouse, a parent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree; and

(3) “Member of an unmarried couple” means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

Effective: July 14, 1992

403.725 Petition, who may file – Protective orders.

(1) Any family member or member of an unmarried couple who is a resident of this state or has fled to this state to escape domestic violence and abuse may file a verified petition in the District Court of the county in which he resides. If the petitioner has left his usual place of residence within this state in order to avoid domestic violence and abuse, the petition may be filed and proceedings held in the District Court in the county of his usual residence or in the District Court in the county of current residence. Any family member or member of an unmarried couple who files a petition for an emergency protective order in District or Circuit Court shall make known to the court any custody or divorce actions, involving both the petitioner and the respondent, that are pending in any Circuit Court in the Commonwealth. The petition shall also include the name of the court where filed.

(2) Any family member or any member of an unmarried couple, as those terms are defined in KRS 403.720, may file for and receive protection under KRS 403.715 to 403.785, notwithstanding the existence of or intent to file an action in the Circuit Court by either party under the provisions of this chapter.

(3) A petition filed pursuant to subsection (1) of this section may be filed by the family member or member of an unmarried couple seeking relief or by an adult family member or member of an unmarried couple on behalf of a minor family member.

(4) If a family member files an action for dissolution of marriage or child custody in Circuit Court, the Circuit Court shall have jurisdiction to issue a protective order upon the filing of a verified motion therein either at the commencement or during the pendency of the action in Circuit Court pursuant to the provisions of KRS 403.730 to 403.785.

(5) No Circuit or District Court shall require mediation, conciliation, or counseling prior to or as a condition of issuing an emergency protective order or domestic violence order.

(6) When the elected, appointed, or special judge of the district is absent from the district, otherwise unavailable, or unable to act, any Circuit Judge shall have the authority to issue an emergency protective order pursuant to KRS 403.730 to 403.785. If a Circuit Judge issues an emergency protective order, except as otherwise provided in this section, that judge shall conduct the hearing as required by KRS 403.745 and any order issued shall be enforced as provided in this chapter.

(7) During any hearing in Circuit Court on dissolution of marriage, child custody, or visitation, at which both parties are present or represented by counsel, the Circuit Judge shall have the authority to issue a protective order pursuant to KRS 403.750 to 403.785.

(8) Following the issuance of a protective order under this section, if the judge who issued the order is absent from the district, otherwise unavailable, or unable to conduct proceedings regarding the enforcement, violation, or modification of the order within a reasonable time, the proceedings shall be conducted by any District or Circuit Judge.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 99, sec. 1, effective July 15, 1996. – Amended 1992 Ky. Acts ch. 172, sec. 3, effective July 14, 1992; and ch. 414, sec. 4, effective July 14, 1992. – Created 1984 Ky. Acts ch. 152, sec. 3, effective July 13, 1984.

403.730 Petition – Contents – Form – Filing fee.

(1) A petition filed pursuant to KRS 403.725 shall be verified and shall contain:

- (a) The name, age, address, occupation, and residence of the petitioner;
- (b) The name, age, address, occupation, and residence of the person or persons who have engaged in the alleged act or acts of domestic violence and abuse;
- (c) The facts and circumstances which constituted the alleged domestic violence and abuse;
- (d) The date and place of the marriage of the parties, if applicable; and
- (e) The names, ages, and addresses of the parties' minor children, if applicable.

(2) The petition shall be filed on forms prescribed by the Administrative Office of the Courts and provided to the person seeking relief under KRS 403.715 to 403.785 by the circuit clerk or to another individual authorized by the court to provide and verify petitions in emergency situations, such as law enforcement officers, and county or Commonwealth's attorneys. All petitions requested, completed, and signed by persons seeking protection under the provisions of KRS 403.715 to 403.785 shall be accepted and filed.

(3) Notwithstanding any provision of law to the contrary, no filing fee or court costs shall be assessed against the petitioner in connection with filing a petition under KRS 403.725.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 172, sec. 4, effective July 14, 1992. – Created 1984 Ky. Acts ch. 152, sec. 4, effective July 13, 1984.

403.735 Review by court – Access to emergency protective orders –Local protocol in domestic violence matters – Time at which orders of protection take effect.

- (1) Upon the filing of a petition, as provided for in KRS 403.725, the court, after review of the petition and determining that domestic violence and abuse exists, without a jury, shall utilize one (1) of the alternatives provided for in KRS 403.740 or 403.745.
- (2) A court may issue mutual protective orders only if a separate petition is filed by the respondent. Pursuant to KRS 403.740 and 403.750, the court shall then provide orders, sufficiently specific to apprise any peace officer as to which party has violated the order if there is probable cause to believe a violation of the order has occurred.
- (3)
 - (a) All courts shall provide twenty-four (24) hour access to emergency protective orders.
 - (b) Each court shall submit written procedures for twenty-four (24) hour accessibility to be reviewed and approved by the Kentucky Supreme Court.
 - (c) Each court shall establish the local protocol in domestic violence matters in which there may be joint jurisdiction between District and Circuit Court. Each court shall submit the written procedures to be reviewed and approved by the Kentucky Supreme Court.
 - (d) All amendments or revisions to the local procedures required pursuant to this section shall be submitted to the Kentucky Supreme Court for review and approval.
- (4) If an emergency protective order is not issued, the court shall note on the petition, for the record, any action taken or denied and the reason for it.
- (5) An order of protection issued under the provisions of KRS 403.715 to 403.785 shall become effective and binding on the respondent at the time of personal service or when the respondent is given notice of the existence and terms of the order by a peace officer or the court, whichever is earlier. After notice of the existence and terms of the order is given to the respondent, a peace officer or the court may enforce the terms of the order, and act immediately upon any violation of the order. After notice of the order, all reasonable efforts shall be made by the peace officer or the court to arrange for personal service of the order upon the respondent.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 99, sec. 14, effective July 15, 1996. – Amended 1992 Ky. Acts ch. 172, sec. 5, effective July 14, 1992. – Created 1984 Ky. Acts ch. 152, sec. 5, effective July 13, 1984.

403.737 Forms for documents entered into Law Information Network of Kentucky.

All forms, affidavits, emergency protective orders, domestic violence orders, orders amending an existing protective order, or other orders issued pursuant to KRS 403.715 to 403.785, or the laws of another jurisdiction which are entitled to full faith and credit in Kentucky pursuant to the provisions of 18 U.S.C. sec. 2265, which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts after consultation with the Justice Cabinet. If the provisions of a protective order are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 99, sec. 3, effective July 15, 1996.

403.740 Emergency protective order.

(1) If, upon review of the petition, as provided for in KRS 403.735, the court determines that the allegations contained therein indicate the presence of an immediate and present danger of domestic violence and abuse, the court shall issue, upon proper motion, ex parte, an emergency protective order:

- (a) Restraining the adverse party from any contact or communication with the petitioner except as directed by the court;
- (b) Restraining the adverse party from committing further acts of domestic violence and abuse;
- (c) Restraining the adverse party from disposing of or damaging any of the property of the parties;
- (d) Directing the adverse party to vacate the residence shared by the parties to the action;
- (e) Utilizing the criteria set forth in KRS 403.270, 403.320, and KRS 403.822, grant temporary custody; or
- (f) Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse; or any combination thereof.

(2) Except as provided in KRS 403.036, if the court issues an emergency protective order pursuant to subsection (1) of this section, the court shall not order or refer the parties to mediation for resolution of the issues alleged in the petition filed pursuant to KRS 403.735.

(3) An emergency protective order issued in accordance with this section shall be issued without bond being required of the petitioner.

(4) An emergency protective order issued in accordance with this section shall be effective for a period of time fixed in the order, but not to exceed fourteen (14) days. Upon the issuance of an emergency protective order, a date for a full hearing, as provided for in KRS 403.745, shall be fixed not later than the expiration date of the emergency protective order. An emergency protective order shall be reissued for a period not to exceed fourteen (14)

days if service has not been made on the adverse party by the fixed court date and time or as the court determines is necessary for the protection of the petitioner.

(5) The adverse party shall be personally served with a copy of the emergency protective order, a copy of the notice setting the full hearing, and a copy of the petition. Service may be made in the manner and by the persons authorized to serve subpoenas under the provisions of Rule 45.03 of the Rules of Civil Procedure. No service fee shall be assessed to the petitioner.

Effective: July 13, 2004

History: Amended 2004 Ky. Acts ch. 133, sec. 44, effective July 13, 2004. – Amended 1996 Ky. Acts ch. 99, sec. 16, effective July 15, 1996. – Amended 1992 Ky. Acts ch. 172, sec. 6, effective July 14, 1992. – Created 1984 Ky. Acts ch. 152, sec. 6, effective July 13, 1984.

403.745 Hearing.

(1) If, upon review of the petition as provided for in KRS 403.735, the court determines that the allegations contained therein do not indicate the presence of an immediate and present danger of domestic violence and abuse, the court shall fix a date, time, and place for a hearing and shall cause a summons to be issued for the adverse party.

(2) The hearing shall be fixed not later than fourteen (14) days following the issuance of the summons.

(3) The summons, together with a copy of the order fixing the date of the hearing and a copy of the petition shall be personally served upon the adverse party. Service may be made in the manner and by the persons authorized to serve subpoenas under the provisions of Rule 45.03 of the Rules of Civil Procedure.

(4) A summons may be reissued if service has not been made on the adverse party by the fixed court date and time.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 172, sec. 7, effective July 14, 1992. – Created 1984 Ky. Acts ch. 152, sec. 7, effective July 13, 1984.

403.750 Court orders – Amendment.

(1) Following the hearing provided for under KRS 403.740 and 403.745, the court, if it finds from a preponderance of the evidence that an act or acts of domestic violence and abuse have occurred and may again occur, may:

(a) Restrain the adverse party from any contact or communication with the petitioner except as directed by the court;

(b) Restrain the adverse party from committing further acts of domestic violence and abuse;

(c) Restrain the adverse party from disposing of or damaging any of the property of the parties;

(d) Direct the adverse party to vacate the residence shared by the parties to the action;

- (e) Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.822, award temporary custody;
 - (f) Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213, award temporary support;
 - (g) Direct that either or both parties receive counseling services available in the community, except that the court shall not order or refer the parties to participate in mediation for resolution of the issues alleged in the petition filed pursuant to KRS 403.715 to 403.785; or
 - (h) Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse.
- (2) Any order entered pursuant to this section shall be effective for a period of time, fixed by the court, not to exceed three (3) years and may be reissued upon expiration for an additional period of up to three (3) years. The number of times an order may be reissued shall not be limited. With respect to whether an order should be reissued, any party may present to the court testimony relating to the importance of the fact that acts of domestic violence or abuse have not occurred during the pendency of the order.
- (3) Upon proper filing of a motion, either party may seek to amend a domestic violence order.
- (4) When temporary child support is granted under the provisions of this section, the court shall enter an order detailing how the child support is to be paid and collected. The enforcement procedures for child support orders, entered pursuant to KRS 403.211, 403.212, and 403.213, including but not limited to 403.215, shall be available to temporary child support orders issued under KRS 403.715 to 403.785.
- (5) Any order entered pursuant to this section restraining a party or parties to an action shall be issued without bond being required of the petitioner.

Effective: July 13, 2004

History: Amended 2004 Ky. Acts ch. 133, sec. 45, effective July 13, 2004. – Amended 1996 Ky. Acts ch. 99, sec. 2, effective July 15, 1996. – Amended 1992 Ky. Acts ch. 172, sec. 8, effective July 14, 1992. – Amended 1990 Ky. Acts ch. 418, sec. 6, effective July 13, 1990. – Created 1984 Ky. Acts ch. 152, sec. 8, effective July 13, 1984.

**403.7505 Certification standards for mental health professionals
providing courtmandated treatment – List of certified providers to
Administrative Office of the Courts – Submission of data to cabinet –
Distribution of compiled data.**

- (1) The Cabinet for Health Services shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish certification standards for mental health professionals providing court-mandated treatment services for domestic violence offenders.
- (2) The standards created by the cabinet shall be based on the following principles:
 - (a) Domestic violence is a pattern of coercive control which includes physical, sexual, psychological, and environmental abuse, and is considered to be criminal conduct;

- (b) The primary goal of treatment programs for domestic violence offenders shall be the cessation of violence which will provide for the safety of victims and their children; and
 - (c) Domestic violence offenders are responsible and shall be held accountable for the violence which they choose to perpetrate.
- (3) The standards created by the cabinet shall address the following:
- (a) Qualifications of providers of court-mandated domestic violence offender treatment services which shall include appropriate requirements for degree, experience, training, and continuing education;
 - (b) Procedures for application by providers to receive certification which shall include methods of appeal if certification is denied, and sanctions for noncompliance with the standards which may include revocation of certification;
 - (c) Admittance and discharge criteria for domestic violence offenders to enter court-mandated treatment services provided pursuant to this section;
 - (d) Written protocols for referral by a court to certified providers and for progress reports to be made to the court by providers;
 - (e) Contracts for domestic violence offenders to sign prior to entering court-ordered treatment services provided pursuant to this section. The contract shall specify that certified providers may contact the victims of the offender if the victim chooses to be contacted. The contract shall authorize the provider to release information regarding the offender's progress in treatment to the court, victims, probation and parole officers, and other individuals authorized by the court to receive the information;
 - (f) Written procedures in compliance with KRS 202A.400, 209.030, and 620.030;
 - (g) Payment protocols which require the offender to pay the actual cost for any court-mandated evaluation or treatment pursuant to this section, subject to the offender's ability to pay; and
 - (h) Other provisions which shall further the availability and quality of court-mandated domestic violence offender services.
- (4) The cabinet shall:
- (a) Maintain a list of providers certified pursuant to this section and regularly submit the list to the Administrative Office of the Courts; and
 - (b) Collect data from certified providers, which shall include demographic information and clinical characteristics on offenders served, number of offenders admitted into treatment and discharge conditions, total clinical services provided to offenders, and other information necessary to monitor the safety and effectiveness of services provided, to be compiled annually and submitted to the Governor, the Chief Justice of the Kentucky Supreme Court, and the Legislative Research Commission.
- (5) No person, association, or organization shall conduct, operate, maintain, advise, or advertise any program that provides court-ordered treatment services for domestic violence offenders without first obtaining or maintaining valid certification under this chapter. If the cabinet has cause to believe that court-ordered treatment services for domestic violence offenders are being provided by a person or entity that does not possess valid certification

under this chapter, the cabinet may institute proceedings, in the Circuit Court of the county in which the person or entity is located or in Franklin Circuit Court, for injunctive relief to terminate the provision of those services.

(6) Any person certified under this section shall submit quarterly to the cabinet:

- (a) Demographic information and clinical characteristics on offenders served;
- (b) Number of offenders admitted into treatment and discharge conditions;
- (c) Total clinical services provided to offenders; and
- (d) Other information as required by administrative regulation.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 70, sec. 1, effective July 15, 2002. – Amended 2000 Ky. Acts ch. 317, sec. 4, effective July 14, 2000. – Amended 1998 Ky. Acts ch. 426, sec. 581, effective July 15, 1998. – Created 1996 Ky. Acts ch. 54, sec. 1, effective July 15, 1996.

403.751 Statement to assist out-of-state court in determining whether protective order is entitled to full faith and credit.

In order to assist a court of another state in determining whether a protective order issued in this state is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265, all protective orders issued pursuant to KRS 403.715 to 403.785 shall include a statement certifying that the issuing court had jurisdiction over the parties and the matter, and that reasonable notice and opportunity to be heard has been given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte emergency protective orders issued pursuant to KRS 403.740, the statement shall certify that notice and opportunity to be heard has been provided within the time required by state law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights. The Administrative Office of the Courts shall prescribe the form to be used for this purpose.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 99, sec. 13, effective July 15, 1996

403.7521 Foreign protective orders -- Filing – Affidavit certifying validity – Uncertified orders.

(1) In KRS 403.715 to 403.785, "foreign protective order" means any judgment, decree, or order of protection issued by a court of a state of the United States or of any other court which is entitled to full faith and credit in this state pursuant to 18 U.S.C. sec. 2265.

(2) A copy of any foreign protective order entitled to full faith and credit in this state in accordance with the Act of Congress or the statutes of this state may be filed in the office of the clerk of any court of competent jurisdiction of this state. A foreign protective order so filed shall have the same effect and shall be enforced in the same manner as an emergency protective order issued by a court of this state.

(3) (a) At the time of the filing of the foreign protective order, the person filing the order shall file with the clerk of the court an affidavit on a form prescribed and provided by the Administrative Office of the Courts. The affidavit shall set forth the name, city, county, and state or other jurisdiction of the issuing court. The person shall certify in the affidavit the validity and status of the foreign protective order, and attest to the person's belief that the order has not been amended, rescinded, or superseded by any orders from a court of competent jurisdiction. All foreign protective orders presented with a completed and signed affidavit shall be accepted and filed. Knowingly making a false statement in an affidavit required by this subsection shall be a violation of KRS 523.030.

(b) The affidavit signed by the applicant shall have space where the reviewing judge shall place information necessary to allow the order's entry into the Law Information Network of Kentucky in the same manner as a Kentucky order.

(4) (a) If the person seeking to file the order presents a copy of the foreign order which is current by the terms of the order and has been certified by the clerk or other authorized officer of the court which issued it, the circuit clerk shall present it to the District Judge or Circuit Judge, who shall read the order and enter on the affidavit the information necessary to allow the order's entry into the Law Information Network of Kentucky. The order shall not be subject to further verification and shall be accepted as authentic, current, and subject to full faith and credit.

(b) If the order presented is current by the terms of the order but is not certified in the manner specified in paragraph (a) of this subsection, the circuit clerk shall present the order and the affidavit to the District or Circuit Judge, who shall read the order and enter on the affidavit the information necessary to allow the order's entry into the Law Information Network of Kentucky. The order shall be subject to full faith and credit in the same manner as a Kentucky emergency protective order but shall be subject to verification by the circuit clerk. The order shall be valid for a period of fourteen (14) days and may be renewed once for a period of fourteen (14) days if the circuit clerk has not received a certified copy of the order from the issuing jurisdiction. The clerk shall treat the foreign protective order in the same manner as an emergency protective order of this state issued pursuant to KRS 403.740, except that no service on the adverse party shall be required pursuant to 18 U.S.C. sec. 2265.

(c) Upon the filing of an uncertified protective order the circuit clerk shall, within two (2) business days, contact the issuing court to request a certified copy of the order. If the certified copy of the order is received by the circuit clerk within the initial fourteen (14) day period, the clerk shall cause the information that certification has been received to be entered into the Law Information Network of Kentucky and shall notify the applicant for the order of the fact of its certification. A facsimile copy of a certified foreign order shall be grounds for the issuance of a domestic violence order.

(d) If the clerk has not received a certified copy of the foreign order within ten (10) days, the clerk shall notify the court and the applicant that the order has not been received. The notice to the applicant, on a form prepared by the Administrative Office of the Courts, shall state that the order will be extended for another fourteen (14) days, but will be dismissed at that time. If the clerk informs the judge in writing that the certified foreign order has been requested but has not yet been received, the judge shall extend the emergency protective order for a period of fourteen (14) days. If certification of the foreign order is not received within twenty-eight (28) days, the emergency protective order shall expire and shall not be

reissued. If the applicant meets the qualifications for the issuance of a Kentucky emergency protective order or a Kentucky domestic violence order, the court may, upon proper application and showing of evidence, be issued a Kentucky order in accordance with the provisions of KRS 403.715 to 403.785.

(5) Notwithstanding any provision to the contrary, a person filing a foreign protective order shall not be required to pay a fee or other costs in conjunction with the filing or other matters associated with the authentication of the order.

(6) The right of a person filing a foreign protective order to bring an action to enforce the order instead of proceeding under KRS 403.715 to 403.785 remains unimpaired.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 99, sec. 4, effective July 15, 1996.

403.7524 Authentication of foreign protective orders.

(1) Upon ex parte review of the foreign protective order and the affidavit filed pursuant to KRS 403.725, and after determining the order is entitled to full faith and credit in this Commonwealth pursuant to 18 U.S.C. sec. 2265, the court shall declare the order to be authenticated and record the finding on the affidavit.

(2) If the court declares the order to be authenticated, the court shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with, if applicable.

(3) If the court declares the order to be authenticated, the court shall order its enforcement in any county of the Commonwealth in the same manner as a domestic violence order of this state issued pursuant to KRS 403.7521. Officers acting in good faith shall be immune from criminal and civil liability.

(4) The clerk shall notify the person who filed the foreign protective order of the decision of the court and provide the person a certified copy of the affidavit declaring the authentication of the order.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 99, sec. 5, effective July 15, 1996.

Legislative Research Commission Note (7/15/96; modified 1/7/98). The KRS references contained in subsections (1) and (3) of this statute have been codified as those references were enacted in 1996 Ky. Acts ch. 99 (Senate Bill 105), sec. 5, but it appears that these statute references may be erroneous. Subsection (1) contained a reference to Section 1 of the Act (KRS 403.725), but from context it appears that Section 4 of the Act (KRS 403.7521) may have been intended; subsection (3) contained a reference to Section 4 of the Act (KRS 403.7521), but from context it appears that Section 2 of the Act (KRS 403.750) may have been intended. (Modified to correct a mistaken subsection reference.)

403.7527 Enforcement of foreign protective orders.

A court of this state shall enforce a foreign protective order authenticated pursuant to KRS 403.737, 403.7521, and 403.7524, including an order which grants relief to a person who is not eligible for a protective order in this state. A court of this state shall enforce all provisions of a foreign protective order including provisions which grant relief that is not available in this state. Any foreign protective order that has been properly authenticated and that comes within the purview of KRS 403.7524 shall be effective for the period of time fixed by the issuing court.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 606, sec. 189, effective July 15, 1998. – Created 1996 Ky. Acts ch. 99, sec. 6, effective July 15, 1996.

403.7529 Presumption of validity – Enforcement by peace officers.

(1) All foreign protective orders shall have the rebuttable presumption of validity. The validity of a foreign protective order shall only be determined by a court of competent jurisdiction. Until a foreign protective order is declared to be invalid by a court of competent jurisdiction, it shall be given full faith and credit by all peace officers and courts in the Commonwealth.

(2) All peace officers shall treat a foreign protective order as a legal document, valid in Kentucky, and shall make arrests for a violation thereof in the same manner as for a violation of an emergency protective order or domestic violence order issued in Kentucky.

(3) The fact that a foreign protective order has not been entered into the Law Information Network of Kentucky shall not be grounds for a peace officer not to enforce the provisions of the order unless it is readily apparent to the peace officer to whom the order is presented that the order has either expired according to a date shown on the order, or that the order's provisions clearly do not prohibit the conduct being complained of. Officers acting in good faith shall be immune from criminal and civil liability.

(4) In the event that the order has expired or its provisions do not prohibit the conduct being complained of, the officer shall not make an arrest unless the provisions of a Kentucky statute have been violated, in which case the peace officer shall take the action required by Kentucky law.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 606, sec. 190, effective July 15, 1998. – Created 1996 Ky. Acts ch. 99, sec. 7, effective July 15, 1996.

403.7531 Clearing of foreign protective orders from Law Information Network of Kentucky.

A foreign protective order which has been entered into the Law Information Network of Kentucky shall be forthwith cleared as an active record from the computer system when:

- (1) The order expires according to the terms contained therein;
- (2) A Kentucky court notifies the Law Information Network of Kentucky that a foreign protective order has been dismissed, either by court order or entry of notification by a circuit clerk; or
- (3) A circuit clerk notifies the Law Information Network of Kentucky that a foreign protective order tendered to the clerk has not been authenticated in the time period specified in KRS 403.7521.

403.7535 Changes in orders -- Notification.

- (1) A person who has tendered a foreign protective order to a court in Kentucky is under a continuing obligation to inform the court to which the foreign protective order was tendered of any expiration of the order, vacation of the order, modification of the provisions of the order, or other change in the order which the person tendering the order has received from the issuing foreign court.
- (2) A person who has tendered a foreign protective order to a court in Kentucky shall, within two (2) working days of the happening of any event specified in subsection (1) of this section, notify the clerk of the court in which the foreign protective order was tendered of the fact of the changed order and present the clerk with a copy of the order for authentication as provided in KRS 403.7521 or 403.7524. The clerk shall forthwith notify the Law Information Network of Kentucky entering agency of the modification.
- (3) No court in Kentucky and no peace officer in Kentucky shall be expected to enforce a provision of a foreign protective order which has been the subject of any action specified in subsection (1) of this section unless proper notice has been given in accordance with the provisions of this section.
- (4) Intentional failure of a person who has tendered a foreign protective order to make the notifications required by this section in the manner required by this section shall constitute contempt of court and may be grounds for an appropriate civil action brought by any person damaged by the intentional act of omission by the person failing to act.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 99, sec. 9, effective July 15, 1996.

403.7539 Civil and criminal proceedings for violations of foreign protective orders.

- (1) Civil proceedings and criminal proceedings for violation of a foreign protective order for the same violation of the protective order shall be mutually exclusive. Once either proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.
- (2) If criminal proceedings for violation of a foreign protective order are undertaken, the following shall apply:

(a) A person is guilty of violation of a foreign protective order when the person intentionally violates the provisions of a foreign protective order properly authenticated, or filed and awaiting authentication, pursuant to KRS 403.7521 and 403.7524.

(b) Violation of a foreign protective order is a violation of KRS 403.763.

(3) If civil proceedings for violation of a foreign protective order are undertaken, intentional violation of the foreign protective order by the person against whom it was issued shall constitute contempt of court.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 606, sec. 191, effective July 15, 1998. – Created 1996 Ky. Acts ch. 99, sec. 10, effective July 15, 1996.

403.755 Enforcement by law enforcement agency.

(1) Upon the issuance of an order authorized by KRS 403.740 or 403.750, the court shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with.

(2) Orders issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order or an order following a hearing, shall be enforced in any county of the Commonwealth. Officers acting in good faith shall be immune from criminal and civil liability.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 172, sec. 9, effective July 14, 1992. – Created 1984 Ky. Acts ch. 152, sec. 9, effective July 13, 1984.

403.760 Contempt of court.

(1) Violation of the terms or conditions of an order issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order, or an order following hearing, after service of the order on the respondent, or notice of the order to the respondent, shall constitute contempt of court.

(2) Any peace officer having probable cause to believe a violation has occurred of an order issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order or an order following a hearing, and after service on the respondent or notice to the respondent as provided under KRS 403.735, shall arrest the respondent without a warrant for violation of a protective order pursuant to KRS 500.020, 403.715, and 403.740. Following a hearing the District Court in the county in which the peace officer made the arrest for the violation may punish the violation of a protective order as a violation of a protective order.

(3) Court proceedings for contempt of court, under KRS 403.715 to 403.785, shall be held in the county where the order, whether an emergency protective order or order following hearing, was issued.

(4) Nothing in this section shall preclude the Commonwealth from prosecuting and convicting the respondent of criminal offenses other than violation of a protective order.

(5) Civil proceedings and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive. Once either proceeding has been initiated the other shall not be undertaken regardless of the outcome of the original proceeding.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 172, sec. 10, effective July 14, 1992. – Created 1984 Ky. Acts ch. 152, sec. 10, effective July 13, 1984.

403.763 Criminal penalty for violation of protective order.

(1) A person is guilty of a violation of a protective order when he intentionally violates the provisions of an order issued pursuant to KRS 403.715 to 403.785 with which he has been served or has been given notice.

(2) Violation of a protective order is a Class A misdemeanor.

Effective: July 14, 1992

History: Created 1992 Ky. Acts ch. 172, sec. 15, effective July 14, 1992.

403.765 Certification of existence of domestic violence protective orders – Efficacy of existing orders.

If, following the entry of an order authorized by KRS 403.740 or 403.750, or the authentication of a foreign protective order pursuant to KRS 403.737, 403.7521, 403.7524, 403.7527, 403.7529, 403.7531, or 403.7535, the petitioner or the adverse party initiate an action in the Circuit Court under the provisions of this chapter, the party filing the petition shall certify the existence and status of any domestic violence protective orders. Unless the Circuit Court issues and serves an order pertaining to the same subject matter of any existing domestic violence order, orders of the District Court or the issuing court shall remain in effect and shall be enforced in either District or Circuit Court.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 99, sec. 11, effective July 15, 1996. – Amended

403.770 Nonpublication of petitioner's and minor children's addresses – Forwarding of order to Law Information Network of Kentucky and other agencies.

(1) The court, when issuing an emergency protective order, when authenticating a foreign protective order, or when causing the issuance of a summons, shall order the omission or deletion of the petitioner's address, and the address of any minor children from any documents to be made available to the public, or to the person or persons who engaged in the alleged act or acts of domestic violence and abuse.

(2) The circuit clerk, in cooperation with the court shall cause a copy of each summons or order issued pursuant to KRS 403.740, 403.745, or 403.750, or foreign protective order, fully completed, authenticated pursuant to KRS 403.737, 403.7521, 403.7524, 403,7527, 403.7529, 403.7531, or 403.7535, to be forwarded, by the most expedient means reasonably available and within twenty-four (24) hours following its filing with the clerk, to the appropriate agency designated for entry of domestic violence records into the Law Information Network of Kentucky and to the agency assigned service. Any order or court record superseding, modifying, or otherwise affecting the status of an earlier summons or order shall likewise be forwarded by the circuit clerk to the appropriate Law Information Network of Kentucky entering agency and to the agency assigned service if service is required. The clerk and the court shall comply with all provisions and guidelines of the Law Information Network of Kentucky for entry of the records.

(3) Each agency designated for entry of summonses and orders issued pursuant to the provisions of KRS 403.740, 403.745, or 403.750, or foreign protective order authenticated pursuant to KRS 403.737, 403.7521, 403.7524, 403,7527, 403.7529, 403.7531, or 403.7535, into the Law Information Network of Kentucky shall, consistent with the provisions and guidelines of the Law Information Network of Kentucky, enter the records immediately upon receipt of copies forwarded to the agency in accordance with subsection (2) of this section.

(4) A copy of the petition and each order issued pursuant to KRS 403.740 and 403.750 shall be certified and forwarded by the circuit clerk, within twenty-four (24) hours to the circuit clerk in the usual county of residence and county where the petitioner and minor children, if any, currently reside.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 99, sec. 12, effective July 15, 1996. – Amended 1992 Ky. Acts ch. 172, sec. 12, effective July 14, 1992. -- Created 1984 Ky. Acts ch. 152, sec. 12, effective July 13, 1984.

403.771 Printout of foreign orders -- Annual validation.

For validation purposes the Law Information Network of Kentucky shall provide the Circuit Court clerk with a printout of foreign orders. The clerk shall validate each order annually by contacting the original issuing court or jurisdiction. If the clerk has not received information from the foreign jurisdiction within thirty-one (31) days the clerk shall cause orders not validated within thirty-one (31) days to be cleared from the Law Information Network of Kentucky.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 99, sec. 17, effective July 15, 1996.

403.775 Effect of petitioner's leaving residence.

A person's right to apply for relief under the provisions of KRS 403.725 shall not be affected by that person leaving the residence of the parties to avoid domestic violence and abuse.

Effective: July 13, 1984

History: Created 1984 Ky. Acts ch. 152, sec. 13, effective July 13, 1984.

403.780 Testimony not admissible in criminal proceeding.

Testimony offered by an adverse party in a hearing held pursuant to the provisions of KRS 403.745 shall not be admissible in any criminal proceeding involving the same parties.

Effective: July 13, 1984

History: Created 1984 Ky. Acts ch. 152, sec. 14, effective July 13, 1984.

403.783 Model law enforcement domestic violence policy and procedures manual – Distribution – Agency submission to Justice Cabinet – Assistance by cabinet when policy inadequate.

(1) For the purposes of KRS 403.783 to 403.785, “law enforcement agency” means any agency of state, county, city, or metropolitan government, or a combination of these, responsible for employing and directing the action of peace officers, including sheriffs and their deputies, sworn police officers, sworn enforcement officers of the Kentucky State Police or other duly authorized state law enforcement agency whose officers are persons with authority to make arrests under the provisions of KRS 403.760(2).

(2) The secretary of the Justice Cabinet, or a designee, in consultation with legal, victims’ services, victim advocacy, and mental professionals with an expertise in domestic violence, shall develop a written model policy and procedures manual related to domestic violence for law enforcement agencies. The model policy shall set forth the core elements required to be addressed in each law enforcement agency’s policy. The model policy shall also recommend procedures which may be included in local policies. The model policy shall be developed to comply with the provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Families and Children, Department for Community Based Services; victim rights, assistance and service responsibilities; and duties related to timely completion of records. The model policy shall be completed no later than four (4) months after July 15, 1996. The cabinet shall distribute a copy of the model policy to each law enforcement agency in the Commonwealth.

(3) No later than January 1 after July 15, 1996, and July 31 of every even-numbered year which follows, every law enforcement agency shall submit a copy of the agency’s written domestic violence policy to the Justice Cabinet.

(4) If a law enforcement agency fails to submit a copy of the agency’s written domestic violence policy in a timely manner, the secretary shall promptly notify the law enforcement agency in writing of the requirements contained in this section.

(5) If the secretary determines that a law enforcement agency has submitted a domestic violence policy which is inadequate, the secretary shall reject the policy and provide assistance to the agency in developing an adequate domestic violence policy.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 14, sec. 52, effective July 14, 2000. – Amended 1998 Ky. Acts ch. 426, sec. 582, effective July 15, 1998. – Created 1996 Ky. Acts ch. 54, sec. 7, effective July 15, 1996.

403.784 Training and continuing education courses for law enforcement officers.

(1) The Justice Cabinet shall develop initial training courses and continuing education courses, designed to be provided at least once every two (2) years, for law enforcement officers, police dispatchers, and probation or parole officers concerning the dynamics of domestic violence, child physical and sexual abuse, rape, effects of crime on adult and child victims, legal remedies for protection, lethality and risk issues, profiles of offenders, model protocols for addressing domestic violence, child abuse, rape, available community resources and victims services, and reporting requirements. The training shall be developed in consultation with legal, victims services, victim advocacy, and mental health professionals with an expertise in domestic violence, child abuse, and rape.

(2) All law enforcement agencies shall provide initial training and, at least once every two (2) years, continuing education courses, developed by the Justice Cabinet pursuant to subsection (1), to all officers employed by them.

(3) The Justice Cabinet shall provide initial training and, at least once every two (2) years, continuing education courses under subsection (1) of this section for police dispatchers and probation or parole officers.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 317, sec. 5, effective July 14, 2000. – Created 1996 Ky. Acts ch. 54, sec. 8, effective July 15, 1996.

403.785 Duties of law enforcement agencies.

(1) Each law enforcement agency shall report all incidents of actual or suspected domestic violence and abuse within their knowledge to the Cabinet for Families and Children, Department for Community Based Services, within forty-eight (48) hours of learning of the incident or of the suspected incident.

(2) When a law enforcement officer has reason to suspect that a family member, member of an unmarried couple, or household member has been the victim of domestic violence and abuse, the officer shall use all reasonable means to prevent further abuse, including but not limited to:

(a) Remaining at the location of the domestic violence and abuse so long as the officer reasonably suspects there is danger to the physical safety of individuals present without the presence of a law enforcement officer;

(b) Assisting the victim of domestic violence and abuse in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and

(c) Advising the victim immediately of the rights available to them, including the provisions of KRS 403.715 to 403.785.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 14, sec. 53, effective July 14, 2000. – Amended

431.005 Arrest by peace officers – By private persons.

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010 or KRS 281A.210.

(2) (a) Any peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member or member of an unmarried couple.

(b) For the purposes of this subsection, the term “family member” means a spouse, including a former spouse, a parent, a grandparent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree.

(c) For the purpose of this subsection, the term “member of an unmarried couple” means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

(3) For purposes of subsection (2) of this section, a “peace officer” is:

(a) A full-time sworn officer of the Kentucky State Police, a full-time sworn officer of the Kentucky Horse Park, a commissioned full-time state park ranger, a full-time officer of the Division of Law Enforcement within the Department of Fish and Wildlife Resources who is exercising authority under KRS Chapter 235, a full-time city policeman, a full-time county policeman, a full-time university safety and security officer appointed pursuant to KRS 164.950 to 164.970, a full-time city-county policeman, a duly elected sheriff, or a full-time paid deputy sheriff; or

(b) A part-time paid law enforcement officer, or a special paid deputy, who has completed a Kentucky law enforcement council approved education and training program referred to in KRS 403.784.

(c) The provisions of this section relating to training shall not apply to a deputy sheriff who is subject to the training requirements specified in KRS 70.263(3).

(4) If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

(5) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

(6) If a law enforcement officer has probable cause to believe that a person has violated a restraining order issued under KRS 508.155, then the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 119, sec. 3, effective July 15, 2002. – Amended 1998 Ky. Acts ch. 23, sec. 16, effective July 15, 1998. – Amended 1996 Ky. Acts ch. 345, sec. 4, effective July 15, 1996. – Amended 1992 Ky. Acts ch. 172, sec. 14, effective July 14, 1992. – Amended 1990 Ky. Acts ch. 455, sec. 33, effective July 13, 1990. – Amended 1988 Ky. Acts ch. 258, sec. 5, effective July 15, 1988. – Amended 1984 Ky. Acts ch. 165, sec. 23, effective July 13, 1984. – Amended 1980 Ky. Acts ch. 309, sec. 1; and ch. 312, sec. 1, effective July 15, 1980. – Created 1962 Ky. Acts ch. 234, sec. 31.

500.080 Definitions for Kentucky Penal Code.

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;

(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) “Law” includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, “law” also includes the common law;
- (9) “Minor” means any person who has not reached the age of majority as defined in KRS 2.015;
- (10) “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;
- (11) “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;
- (12) “Person” means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority;
- (13) “Physical injury” means substantial physical pain or any impairment of physical condition;
- (14) “Possession” means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;
- (15) “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;
- (16) “Unlawful” means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral;
- (17) “Violation” means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed; and
- (18) “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.

Effective: June 21, 2001

History: Amended 2001 Ky. Acts ch. 113, sec. 7, effective June 21, 2001. – Amended 1992 Ky. Acts ch. 211, sec. 130, effective July 14, 1992. – Amended 1990 Ky. Acts ch. 282, sec. 1, effective July 13, 1990. – Amended 1986 Ky. Acts ch. 331, sec. 56, effective July 15, 1986. – Amended 1978 Ky. Acts ch. 78, sec. 1, effective June 17, 1978. – Created 1974 Ky. Acts ch. 406, sec. 8, effective January 1, 1975; and ch. 74, Art. V, sec. 24(14).

503.050 Use of physical force in self-protection – Admissibility of evidence of prior acts of domestic violence and abuse.

(1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is necessary to protect himself against the use or imminent use of unlawful physical force by the other person.

(2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when the defendant believes that such force is necessary to protect himself against death, serious physical injury, kidnapping, or sexual intercourse compelled by force or threat.

(3) Any evidence presented by the defendant to establish the existence of a prior act or acts of domestic violence and abuse as defined in KRS 403.720 by the person against whom the defendant is charged with employing physical force shall be admissible under this section.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 173, sec. 2, effective July 14, 1992. – Created 1974 Ky. Acts ch. 406, sec. 30, effective January 1, 1975.

508.010 Assault in the first degree.

(1) A person is guilty of assault in the first degree when:

(a) He intentionally causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument; or

(b) Under circumstances manifesting extreme indifference to the value of human life he wantonly engages in conduct which creates a grave risk of death to another and thereby causes serious physical injury to another person.

(2) Assault in the first degree is a Class B felony.

Effective: January 1, 1975

History: Created 1974 Ky. Acts ch. 406, sec. 65, effective January 1, 1975.

508.020 Assault in the second degree.

(1) A person is guilty of assault in the second degree when:

(a) He intentionally causes serious physical injury to another person; or

(b) He intentionally causes physical injury to another person by means of a deadly weapon or a dangerous instrument; or

(c) He wantonly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument.

(2) Assault in the second degree is a Class C felony.

Effective: January 1, 1975

History: Created 1974 Ky. Acts ch. 406, sec. 66, effective January 1, 1975.

508.025 Assault in the third degree.

(1) A person is guilty of assault in the third degree when the actor:

(a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:

1. A state, county, city, or federal peace officer;

2. An employee of a detention facility, or state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender;

3. An employee of the Department for Community Based Services employed as a social worker to provide direct client services, if the event occurs while the worker is performing job-related duties;

4. A probation and parole officer;

5. A transportation officer appointed by a county fiscal court or legislative body of a consolidated local government, urban-county government, or charter government to transport inmates when the county jail or county correctional facility is closed while the transportation officer is performing job-related duties;

6. A public or private elementary or secondary school or school district classified or certified employee, school bus driver, or other school employee acting in the course and scope of the employee's employment; or

7. A public or private elementary or secondary school or school district volunteer acting in the course and scope of that person's volunteer service for the school or school district; or

(b) Being a person confined in a detention facility, or state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender, inflicts physical injury upon or throws or causes feces, or urine, or other bodily fluid to be thrown upon an employee of the facility.

(2) Assault in the third degree is a Class D felony.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 208, sec. 1, effective July 15, 2002; and ch. 360, sec. 1, effective July 15, 2002. – Amended 2000 Ky. Acts ch. 14, sec. 56, effective July 14, 2000; ch.

193, sec. 17, effective July 14, 2000; and ch. 345, sec. 7, effective July 14, 2000. – Amended 1996 Ky. Acts ch. 345, sec. 1, effective July 15, 1996. – Amended 1994 Ky. Acts ch. 397, sec. 1, effective July 15, 1994. – Amended 1990 Ky. Acts ch. 380, sec. 1, effective July 13, 1990. – Created 1982 Ky. Acts ch. 429, sec. 1, effective July 15, 1982.

508.030 Assault in the fourth degree.

- (1) A person is guilty of assault in the fourth degree when:
 - (a) He intentionally or wantonly causes physical injury to another person; or
 - (b) With recklessness he causes physical injury to another person by means of a deadly weapon or a dangerous instrument.
- (2) Assault in the fourth degree is a Class A misdemeanor.

Effective: July 15, 1982

History: Amended 1982 Ky. Acts ch. 429, sec. 2, effective July 15, 1982. – Created 1974 Ky. Acts ch. 406, sec. 67, effective January 1, 1975.

508.032 Assault of family member or member of an unmarried couple -- Enhancement of penalty.

(1) If a person commits a third or subsequent offense of assault in the fourth degree under KRS 508.030 within five (5) years, and the relationship between the perpetrator and the victim in each of the offenses meets the definition of family member or member of an unmarried couple, as defined in KRS 403.720, then the person may be convicted of a Class D felony. If the Commonwealth desires to utilize the provisions of this section, the Commonwealth shall indict the defendant and the case shall be tried in the Circuit Court as a felony case. The jury, or judge if the trial is without a jury, may decline to assess a felony penalty in a case under this section and may convict the defendant of a misdemeanor. The victim in the second or subsequent offense is not required to be the same person who was assaulted in the prior offenses in order for the provisions of this section to apply.

(2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered by a court of competent jurisdiction.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 401, sec. 39, effective July 14, 2000. – Created 1996 Ky. Acts ch. 345, sec. 2, effective July 15, 1996.

508.040 Assault under extreme emotional disturbance.

(1) In any prosecution under KRS 508.010, 508.020 or 508.030 in which intentionally causing physical injury or serious physical injury is an element of the offense, the defendant may establish in mitigation that he acted under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of KRS 507.020.

- (2) An assault committed under the influence of extreme emotional disturbance is:
- (a) A Class D felony when it would constitute an assault in the first degree or an assault in the second degree if not committed under the influence of an extreme emotional disturbance; or
 - (b) A Class B misdemeanor when it would constitute an assault in the fourth degree if not committed under the influence of an extreme emotional disturbance.

Effective: July 13, 1984

History: Amended 1984 Ky. Acts ch. 111, sec. 198, effective July 13, 1984. – Created 1974 Ky. Acts ch. 406, sec. 68, effective January 1, 1975.

508.050 Menacing.

- (1) A person is guilty of menacing when he intentionally places another person in reasonable apprehension of imminent physical injury.
- (2) Menacing is a Class B misdemeanor.

Effective: January 1, 1975

History: Created 1974 Ky. Acts ch. 406, sec. 69, effective January 1, 1975.

508.060 Wanton endangerment in the first degree.

- (1) A person is guilty of wanton endangerment in the first degree when, under circumstances manifesting extreme indifference to the value of human life, he wantonly engages in conduct which creates a substantial danger of death or serious physical injury to another person.
- (2) Wanton endangerment in the first degree is a Class D felony.

Effective: January 1, 1975

History: Created 1974 Ky. Acts ch. 406, sec. 70, effective January 1, 1975.

508.070 Wanton endangerment in the second degree.

- (1) A person is guilty of wanton endangerment in the second degree when he wantonly engages in conduct which creates a substantial danger of physical injury to another person.
- (2) Wanton endangerment in the second degree is a Class A misdemeanor.

Effective: January 1, 1975

History: Created 1974 Ky. Acts ch. 406, sec. 71, effective January 1, 1975.

508.075 Terroristic threatening in the first degree.

- (1) A person is guilty of terroristic threatening in the first degree when he or she:
- (a) Intentionally makes false statements that he or she or another person has placed a weapon of mass destruction on:

1. The real property or any building of any public or private elementary or secondary school, vocational school, or institution of postsecondary education;
 2. A school bus or other vehicle owned, operated, or leased by a school;
 3. The real property or any building public or private that is the site of an official school-sanctioned function; or
 4. The real property or any building owned or leased by a government agency; or
- (b) Intentionally and without lawful authority, places a counterfeit weapon of mass destruction at any location or on any object specified in paragraph (a) of this subsection.
- (2) A counterfeit weapon of mass destruction is placed with lawful authority if it is placed, with the written permission of the chief officer of the school or other institution, as a part of an official training exercise and is placed by a public servant, as defined in KRS 522.010.
- (3) A person is not guilty of commission of an offense under this section if he or she, innocently and believing the information to be true, communicates a threat made by another person to school personnel, a peace officer, a law enforcement agency, a public agency involved in emergency response, or a public safety answering point and identifies the person from whom the threat was communicated, if known.
- (4) Terroristic threatening in the first degree is a Class C felony.

Effective: June 21, 2001

History: Created 2001 Ky. Acts ch. 113, sec. 1, effective June 21, 2001.

508.078 Terroristic threatening in the second degree.

- (1) A person is guilty of terroristic threatening in the second degree when, other than as provided in KRS 508.075, he or she intentionally:
- (a) With respect to a school function, threatens to commit any act likely to result in death or serious physical injury to any student group, teacher, volunteer worker, or employee of a public or private elementary or secondary school, vocational school, or institution of postsecondary education, or to any other person reasonably expected to lawfully be on school property or at a schoolsanctioned activity, if the threat is related to their employment by a school, or work or attendance at school, or a school function. A threat directed at a person or persons or at a school does not need to identify a specific person or persons or school in order for a violation of this section to occur;
 - (b) Makes false statements that he or she has placed a weapon of mass destruction at any location other than one specified in KRS 508.075; or
 - (c) Without lawful authority places a counterfeit weapon of mass destruction at any location other than one specified in KRS 508.075.
- (2) A counterfeit weapon of mass destruction is placed with lawful authority if it is placed as part of an official training exercise by a public servant, as defined in KRS 522.010.
- (3) A person is not guilty of commission of an offense under this section if he or she, innocently and believing the information to be true, communicates a threat made by another person to school personnel, a peace officer, a law enforcement agency, a public agency

involved in emergency response, or a public safety answering point and identifies the person from whom the threat was communicated, if known.

(4) Terroristic threatening in the second degree is a Class D felony.

Effective: June 21, 2001

History: Created 2001 Ky. Acts ch. 113, sec. 2, effective June 21, 2001.

508.080 Terroristic threatening in the third degree.

(1) Except as provided in KRS 508.075 or 508.078, a person is guilty of terroristic threatening in the third degree when:

(a) He threatens to commit any crime likely to result in death or serious physical injury to another person or likely to result in substantial property damage to another person; or

(b) He intentionally makes false statements for the purpose of causing evacuation of a building, place of assembly, or facility of public transportation.

(2) Terroristic threatening in the third degree is a Class A misdemeanor.

Effective: June 21, 2001

History: Amended 2001 Ky. Acts ch. 113, sec. 3, effective June 21, 2001. – Created 1974 Ky. Acts ch. 406, sec. 72, effective January 1, 1975.

508.130 Definitions for KRS 508.130 to 508.150.

As used in KRS 508.130 to 508.150, unless the context requires otherwise:

(1) (a) To “stalk” means to engage in an intentional course of conduct:

1. Directed at a specific person or persons;
2. Which seriously alarms, annoys, intimidates, or harasses the person or persons; and
3. Which serves no legitimate purpose.

(b) The course of conduct shall be that which would cause a reasonable person to suffer substantial mental distress.

(2) “Course of conduct” means a pattern of conduct composed of two (2) or more acts, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of “course of conduct.” If the defendant claims that he was engaged in constitutionally protected activity, the court shall determine the validity of that claim as a matter of law and, if found valid, shall exclude that activity from evidence.

(3) “Protective order” means:

(a) An emergency protective order or domestic violence order issued under KRS 403.715 to 403.785;

(b) A foreign protective order, as defined in KRS 403.7521(1);

(c) An order issued under KRS 431.064;

- (d) A restraining order issued in accordance with KRS 508.155; and
- (e) Any condition of a bond, conditional release, probation, parole, or pretrial diversion order designed to protect the victim from the offender.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 119, sec. 1, effective July 15, 2002. – Amended 2000 Ky. Acts ch. 401, sec. 13, effective July 14, 2000. – Created 1992 Ky. Acts

508.140 Stalking in the first degree.

- (1) A person is guilty of stalking in the first degree,
 - (a) When he intentionally:
 - 1. Stalks another person; and
 - 2. Makes an explicit or implicit threat with the intent to place that person in reasonable fear of:
 - a. Sexual contact as defined in KRS 510.010;
 - b. Serious physical injury; or
 - c. Death; and
 - (b)
 - 1. A protective order has been issued by the court to protect the same victim or victims and the defendant has been served with the summons or order or has been given actual notice; or
 - 2. A criminal complaint is currently pending with a court, law enforcement agency, or prosecutor by the same victim or victims and the defendant has been served with a summons or warrant or has been given actual notice; or
 - 3. The defendant has been convicted of or pled guilty within the previous five (5) years to a felony or to a Class A misdemeanor against the same victim or victims; or
 - 4. The act or acts were committed while the defendant had a deadly weapon on or about his person.
- (2) Stalking in the first degree is a Class D felony.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 401, sec. 14, effective July 14, 2000. – Created 1992 Ky. Acts ch. 443, sec. 2, effective July 14, 1992.

508.150 Stalking in the second degree.

- (1) A person is guilty of stalking in the second degree when he intentionally:
 - (a) Stalks another person; and
 - (b) Makes an explicit or implicit threat with the intent to place that person in reasonable fear of:

1. Sexual contact as defined in KRS 510.010;
 2. Physical injury; or
 3. Death.
- (2) Stalking in the second degree is a Class A misdemeanor.

Effective: July 14, 1992

History: Created 1992 Ky. Acts ch. 443, sec. 3, effective July 14, 1992.

508.155 Restraining order upon violation of KRS 508.140 or 508.150.

- (1) A verdict of guilty or a plea of guilty to KRS 508.140 or 508.150 shall operate as an application for a restraining order limiting the contact of the defendant and the victim who was stalked, unless the victim requests otherwise.
- (2) The court shall give the defendant notice of his or her right to request a hearing on the application for a restraining order. If the defendant waives his or her right to a hearing on this matter, then the court may issue the restraining order without a hearing.
- (3) If the defendant requests a hearing, it shall be held at the time of the verdict or plea of guilty, unless the victim or defendant requests otherwise. The hearing shall be held in the court where the verdict or plea of guilty was entered.
- (4) A restraining order may grant the following specific relief:
 - (a) An order restraining the defendant from entering the residence, property, school, or place of employment of the victim; or
 - (b) An order restraining the defendant from making contact with the victim, including an order forbidding the defendant from personally, or through an agent, initiating any communication likely to cause serious alarm, annoyance, intimidation, or harassment, including but not limited to personal, written, telephonic, or any other form of written or electronic communication or contact with the victim. An order issued pursuant to this subsection relating to a school, place of business, or similar nonresidential location shall be sufficiently limited to protect the stalking victim but shall also protect the defendant's right to employment, education, or the right to do legitimate business with the employer of a stalking victim as long as the defendant does not have contact with the stalking victim. The provisions of this subsection shall not apply to a contact by an attorney regarding a legal matter.
- (5) A restraining order issued pursuant to this section shall be valid for a period of not more than ten (10) years, the specific duration of which shall be determined by the court. Any restraining order shall be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim, his or her immediate family, or both.
- (6) Unless the defendant has been convicted of a felony, or is otherwise ineligible to purchase or possess a firearm under federal law, a restraining order issued pursuant to this section shall not operate as a ban on the purchase or possession of firearms or ammunition by the defendant.

(7) The restraining order shall be issued on a form prescribed by the Administrative Office of the Courts and may be lifted upon application of the stalking victim to the court which granted the order.

(8) Within twenty-four (24) hours of entry of a restraining order or entry of an order rescinding a restraining order, the circuit clerk shall forward a copy of the order to the Law Information Network of Kentucky (LINK).

(9) A restraining order issued under this section shall be enforced in any county of the Commonwealth. Law enforcement officers acting in good faith in enforcing a restraining order shall be immune from criminal and civil liability.

(10) A violation by the defendant of an order issued pursuant to this section shall be a Class A misdemeanor. Nothing in this section shall preclude the filing of a criminal complaint for stalking based on the same act which is the basis for the violation of the restraining order.

Effective: July 15, 2002

History: Created 2002 Ky. Acts ch. 119, sec. 2, effective July 15, 2002.

510.010 Definitions for chapter.

The following definitions apply in this chapter unless the context otherwise requires:

(1) “Deviate sexual intercourse” means any act of sexual gratification involving the sex organs of one person and the mouth or anus of another; or penetration of the anus of one person by a foreign object manipulated by another person. “Deviate sexual intercourse” does not include penetration of the anus by a foreign object in the course of the performance of generally recognized health-care practices;

(2) “Forcible compulsion” means physical force or threat of physical force, express or implied, which places a person in fear of immediate death, physical injury to self or another person, fear of the immediate kidnap of self or another person, or fear of any offense under this chapter. Physical resistance on the part of the victim shall not be necessary to meet this definition;

(3) “Mental illness” means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association;

(4) “Mentally retarded person” means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, as defined in KRS Chapter 202B;

(5) “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of an intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent;

(6) “Physically helpless” means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act. “Physically helpless” also includes

a person who has been rendered unconscious or for any other reason is physically unable to communicate an unwillingness to an act as a result of the influence of a controlled substance or legend drug;

(7) “Sexual contact” means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party;

(8) “Sexual intercourse” means sexual intercourse in its ordinary sense and includes penetration of the sex organs of one person by a foreign object manipulated by another person. Sexual intercourse occurs upon any penetration, however slight; emission is not required. “Sexual intercourse” does not include penetration of the sex organ by a foreign object in the course of the performance of generally recognized health-care practices; and

(9) “Foreign object” means anything used in commission of a sexual act other than the person of the actor.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 259, sec. 6, effective July 15, 2002. – Amended 2000 Ky. Acts ch. 401, sec. 4, effective July 14, 2000. – Amended 1996 Ky. Acts ch. 300, sec. 2, effective July 15, 1996. – Amended 1992 Ky. Acts ch. 355, sec. 1 effective July 14, 1992. – Amended 1990 Ky. Acts ch. 448, sec. 1, effective July 13, 1990. – Amended 1988 Ky. Acts ch. 78, sec. 1, effective July 15, 1988; and ch. 283, sec. 9, effective July 15, 1988. – Amended 1986 Ky. Acts ch. 486, sec. 1, effective July 15, 1986. – Created 1974 Ky. Acts ch. 406, sec. 81.

510.015 Treatment of third or subsequent misdemeanor under KRS Chapter 510 as Class D felony.

Unless a higher penalty is otherwise prescribed and notwithstanding any provision of this chapter to the contrary, a person who commits a third or subsequent misdemeanor offense under this chapter, except for violations of KRS 510.150, may be convicted of a Class D felony. If the Commonwealth desires to utilize the provisions of this section, the Commonwealth shall indict the defendant and the case shall be tried in the Circuit Court as a felony case. The jury, or judge if the trial is without a jury, may decline to assess a felony penalty in a case under this section and may convict the defendant of a misdemeanor.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 401, sec. 6, effective July 14, 2000.

510.020 Lack of consent.

(1) Whether or not specifically stated, it is an element of every offense defined in this chapter that the sexual act was committed without consent of the victim.

(2) Lack of consent results from:

(a) Forcible compulsion;

(b) Incapacity to consent; or

(c) If the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

(3) A person is deemed incapable of consent when he is:

- (a) Less than sixteen (16) years old;
- (b) Mentally retarded or suffers from a mental illness;
- (c) Mentally incapacitated; or
- (d) Physically helpless.

Effective: July 15, 1988

History: Amended 1988 Ky. Acts ch. 283, sec. 10, effective July 15, 1988. – Created 1974 Ky. Acts ch. 406, sec. 82, effective January 1, 1975.

510.030 Defenses.

In any prosecution under this chapter in which the victim's lack of consent is based solely on his incapacity to consent because he was less than sixteen (16) years old, mentally retarded, mentally incapacitated or physically helpless, the defendant may prove in exculpation that at the time he engaged in the conduct constituting the offense he did not know of the facts or conditions responsible for such incapacity to consent.

Effective: July 15, 1988

510.035 No offense committed if parties married to each other.

A person who engages in sexual intercourse or deviate sexual intercourse with another person to whom the person is married, or subjects another person to whom the person is married to sexual contact, does not commit an offense under this chapter regardless of the person's age solely because the other person is less than sixteen (16) years old or mentally retarded.

Effective: July 13, 1990

History: Created 1990 Ky. Acts ch. 448, sec. 5, effective July 13, 1990.

510.040 Rape in the first degree.

(1) A person is guilty of rape in the first degree when:

(a) He engages in sexual intercourse with another person by forcible compulsion;

or

(b) He engages in sexual intercourse with another person who is incapable of consent because he:

- 1. Is physically helpless; or
- 2. Is less than twelve (12) years old.

(2) Rape in the first degree is a Class B felony unless the victim is under twelve (12) years old or receives a serious physical injury in which case it is a Class A felony.

Effective: January 1, 1975

History: Created 1974 Ky. Acts ch. 406, sec. 84, effective January 1, 1975.

510.050 Rape in the second degree.

(1) A person is guilty of rape in the second degree when:

(a) Being eighteen (18) years old or more, he engages in sexual intercourse with another person less than fourteen (14) years old; or

(b) He engages in sexual intercourse with another person who is mentally incapacitated.

(2) Rape in the second degree is a Class C felony.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 259, sec. 3, effective July 15, 2002. – Created 1974 Ky. Acts ch. 406, sec. 85, effective January 1, 1975.

510.060 Rape in the third degree.

(1) A person is guilty of rape in the third degree when:

(a) He engages in sexual intercourse with another person who is incapable of consent because he is mentally retarded;

(b) Being twenty-one (21) years old or more, he engages in sexual intercourse with another person less than sixteen (16) years old; or

(c) Being twenty-one (21) years old or more, he engages in sexual intercourse with another person less than eighteen (18) years old and for whom he provides a foster family home as defined in KRS 600.020.

(2) Rape in the third degree is a Class D felony.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 259, sec. 7, effective July 15, 2002; and ch. 282, sec. 1, effective July 15, 2002. – Amended 1988 Ky. Acts ch. 283, sec. 12, effective July 15, 1988. – Created 1974 Ky. Acts ch. 406, sec. 86, effective January 1, 1975.

Legislative Research Commission Note (7/15/2002).

510.070 Sodomy in the first degree.

(1) A person is guilty of sodomy in the first degree when:

(a) He engages in deviate sexual intercourse with another person by forcible compulsion; or

(b) He engages in deviate sexual intercourse with another person who is incapable of consent because he:

1. Is physically helpless; or
2. Is less than twelve (12) years old.

(2) Sodomy in the first degree is a Class B felony unless the victim is under twelve (12) years old or receives a serious physical injury in which case it is a Class A felony.

Effective: January 1, 1975

History: Created 1974 Ky. Acts ch. 406, sec. 87, effective January 1, 1975.

510.080 Sodomy in the second degree.

(1) A person is guilty of sodomy in the second degree when:

- (a) Being eighteen (18) years old or more, he engages in deviate sexual intercourse with another person less than fourteen (14) years old; or
- (b) He engages in deviate sexual intercourse with another person who is mentally incapacitated.

(2) Sodomy in the second degree is a Class C felony.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 259, sec. 4, effective July 15, 2002. – Created 1974 Ky. Acts ch. 406, sec. 88, effective January 1, 1975.

510.090 Sodomy in the third degree.

(1) A person is guilty of sodomy in the third degree when:

- (a) He engages in deviate sexual intercourse with another person who is incapable of consent because he is mentally retarded;
- (b) Being twenty-one (21) years old or more, he engages in deviate sexual intercourse with another person less than sixteen (16) years old; or
- (c) Being twenty-one (21) years old or more, he engages in deviate sexual intercourse with another person less than eighteen (18) years old and for whom he provides a foster family home as defined in KRS 600.020.

(2) Sodomy in the third degree is a Class D felony.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 259, sec. 8, effective July 15, 2002; and ch. 282, sec. 2, effective July 15, 2002. – Amended 1988 Ky. Acts ch. 283, sec. 13, effective July 15, 1988. – Created 1974 Ky. Acts ch. 406, sec. 89, effective January 1, 1975.

Legislative Research Commission Note (7/15/2002). This section was amended by 2002 Ky. Acts chs. 259 and 282, which do not appear to be in conflict and have been codified together.

510.100 Sodomy in the fourth degree.

- (1) A person is guilty of sodomy in the fourth degree when he engages in deviate sexual intercourse with another person of the same sex.
- (2) Notwithstanding the provisions of KRS 510.020, consent of the other person shall not be a defense under this section, nor shall lack of consent of the other person be an element of this offense.
- (3) Sodomy in the fourth degree is a Class A misdemeanor.

510.110 Sexual abuse in the first degree.

- (1) A person is guilty of sexual abuse in the first degree when:
 - (a) He subjects another person to sexual contact by forcible compulsion; or
 - (b) He subjects another person to sexual contact who is incapable of consent because he:
 1. Is physically helpless;
 2. Is less than twelve (12) years old; or
 3. Is mentally incapacitated.
- (2) Sexual abuse in the first degree is a Class D felony.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 259, sec. 5, effective July 15, 2002. – Created 1974 Ky. Acts ch. 406, sec. 91, effective January 1, 1975.

510.120 Sexual abuse in the second degree.

- (1) A person is guilty of sexual abuse in the second degree when:
 - (a) He subjects another person to sexual contact who is incapable of consent because he is mentally retarded;
 - (b) He subjects another person who is less than fourteen (14) years old to sexual contact;
 - (c) Being an employee, contractor, vendor, or volunteer of the Department of Corrections, or a detention facility as defined in KRS 520.010, or of an entity under contract with either the department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he subjects an offender who is incarcerated, supervised, evaluated, or treated by the Department of Corrections, the detention facility, or the contracting entity, to sexual contact. In any prosecution under this paragraph, the defendant may prove in exculpation that, at the time he engaged in the conduct constituting the offense, he and the offender were married to each other; or
 - (d) Being twenty-one (21) years old or more, he subjects another person to sexual contact who is less than eighteen (18) years old and for whom he provides a foster family home as defined in KRS 600.020.
- (2) Sexual abuse in the second degree is a Class A misdemeanor.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 259, sec. 9, effective July 15, 2002; and ch. 282, sec. 3, effective July 15, 2002. – Amended 2000 Ky. Acts ch. 345, sec. 8, effective July 14, 2000. – Amended 1988 Ky. Acts ch. 283, sec. 14, effective July 15, 1988. – Created 1974 Ky. Acts ch. 406, sec. 92, effective January 1, 1975.

Legislative Research Commission Note (7/15/02). This section was amended by 2002 Ky. Acts chs. 259 and 282, which do not appear to be in conflict and have been codified together.

510.130 Sexual abuse in the third degree.

- (1) A person is guilty of sexual abuse in the third degree when:
- (a) He subjects another person to sexual contact without the latter's consent.
 - (b) In any prosecution under this section, it is a defense that:
 - 1. The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen (16) years old; and
 - 2. The other person was at least fourteen (14) years old; and
 - 3. The actor was less than five (5) years older than the other person.
- (2) Sexual abuse in the third degree is a Class B misdemeanor.

Effective: January 1, 1975

History: Created 1974 Ky. Acts ch. 406, sec. 93, effective January 1, 1975.

510.140 Sexual misconduct.

- (1) A person is guilty of sexual misconduct when he engages in sexual intercourse or deviate sexual intercourse with another person without the latter's consent.
- (2) Sexual misconduct is a Class A misdemeanor.

Effective: January 1, 1975

History: 1974 Ky. Acts ch. 406, sec. 94, effective January 1, 1975.

525.070 Harassment.

- (1) A person is guilty of harassment when with intent to harass, annoy or alarm another person he:
- (a) Strikes, shoves, kicks, or otherwise subjects him to physical contact; or
 - (b) Attempts or threatens to strike, shove, kick, or otherwise subject the person to physical contact; or
 - (c) In a public place, makes an offensively coarse utterance, gesture, or display, or addresses abusive language to any person present; or
 - (d) Follows a person in or about a public place or places; or

(e) Engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose.

(2) (a) Except as provided in paragraph (b) of this subsection, harassment is a violation.

(b) Harassment, as defined in paragraph (a) of subsection (1) of this section, is a Class B misdemeanor.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 345, sec. 3, effective July 15, 1996. – Created 1974 Ky. Acts ch. 406, sec. 217, effective January 1, 1975.

525.080 Harassing communications.

(1) A person is guilty of harassing communications when with intent to harass, annoy or alarm another person he:

(a) Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail or any other form of written communication in a manner which causes annoyance or alarm and serves no purpose of legitimate communication; or

(b) Makes a telephone call, whether or not conversation ensues, with no purpose of legitimate communication.

(2) Harassing communications is a Class B misdemeanor.

Effective: January 1, 1975

History: Created 1974 Ky. Acts ch. 406, sec. 218, effective January 1, 1975.

532.020 Designation of offenses.

(1) Any offense defined outside this code for which a law outside this code provides a sentence to a term of imprisonment in the state for:

(a) At least one (1) but not more than five (5) years shall be deemed a Class D felony;

(b) At least five (5) but not more than ten (10) years shall be deemed a Class C felony;

(c) At least ten (10) but not more than twenty (20) years shall be deemed a Class B felony;

(d) For at least twenty (20) but not more than fifty (50) years or for life shall be deemed a Class A felony.

(2) Any offense defined outside this code for which a law outside this code provides a sentence to a definite term of imprisonment with a maximum which falls between ninety (90) days and twelve (12) months shall be deemed a Class A misdemeanor.

(3) Any offense defined outside this code for which a law outside this code provides a sentence to a definite term of imprisonment with a maximum of less than ninety (90) days shall be deemed a Class B misdemeanor.

(4) Any offense defined outside this code for which a law outside this code provides a sentence to a fine only or to any other punishment, whether in combination with a fine or not, other than death or imprisonment shall be deemed a violation.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 606, sec. 74, effective July 15, 1998. – Amended 1980 Ky. Acts ch. 309, sec. 5, effective July 15, 1980. – Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 15, sec. 2, effective December 22, 1976. – Created 1974 Ky. Acts ch. 406, sec. 274, effective January 1, 1975.

532.060 Sentence of imprisonment for felony.

(1) A sentence of imprisonment for a felony shall be an indeterminate sentence, the maximum of which shall be fixed within the limits provided by subsection (2), and subject to modification by the trial judge pursuant to KRS 532.070.

(2) The authorized maximum terms of imprisonment for felonies are:

(a) For a Class A felony, not less than twenty (20) years nor more than fifty (50) years, or life imprisonment;

(b) For a Class B felony, not less than ten (10) years nor more than twenty (20) years;

(c) For a Class C felony, not less than five (5) years nor more than ten (10) years; and

(d) For a Class D felony, not less than one (1) year nor more than five (5) years.

(3) For any felony specified in KRS Chapter 510, KRS 530.020, 530.064, or 531.310, the sentence shall include an additional three (3) year period of conditional discharge which shall be added to the maximum sentence rendered for the offense. During this period of conditional discharge, if a defendant violates the provisions of conditional discharge, the defendant may be reincarcerated for:

(a) The remaining period of his initial sentence, if any is remaining; and

(b) The entire period of conditional discharge, or if the initial sentence has been served, for the remaining period of conditional discharge.

(4) The actual time of release within the maximum established by subsection (1), or as modified pursuant to KRS 532.070, shall be determined under procedures established elsewhere by law.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 606, sec. 70, effective July 15, 1998. – Created 1974 Ky. Acts ch. 406, sec. 278, effective January 1, 1975.

532.090 Sentence of imprisonment for misdemeanor.

A sentence of imprisonment for a misdemeanor shall be a definite term and shall be fixed within the following maximum limitations:

(1) For a Class A misdemeanor, the term shall not exceed twelve (12) months; and

(2) For a Class B misdemeanor, the term shall not exceed ninety (90) days.

Effective: January 1, 1975

History: Created 1974 Ky. Acts ch. 406, sec. 281, effective January 1, 1975.