

1998 Kentucky Laws Ch. 606 (H.B. 455)

KENTUCKY 1998 SESSION LAWS
1998 REGULAR SESSION

Additions are indicated by <<+ Text +>>; deletions by
<<- Text ->>. Changes in tables are made but not highlighted.

Ch. 606 (H.B. 455)
West's No. 609

CRIMES—JUVENILE DELINQUENTS—GENERAL AMENDMENTS

AN ACT relating to criminal justice matters.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

<<+(1) The Department of Juvenile Justice or a local organization approved by the Department of Juvenile Justice may form local juvenile delinquency prevention councils for the purpose of encouraging the initiation of, or supporting ongoing, interagency cooperation and collaboration in addressing juvenile crime and juvenile status offenses.+>>

<<+(2) The membership of the local council shall be determined by the Department of Juvenile Justice and shall include representatives of law enforcement, the school system, the Department of Social Services, the Court of Justice, the Commonwealth's attorney, the county attorney, a representative of a county juvenile detention facility, and the Department for Public Advocacy. The members of the council shall be appointed as provided by the department by administrative regulation and shall be appointed for not longer than four (4) years, but members may be reappointed for a successive term. A member of the council shall receive no salary for service as a member of the council but may be reimbursed for expenses in the same manner as a state employee.+>>

<<+(3) The duties and responsibilities of a juvenile delinquency prevention council shall include but not be limited to:+>>

<<+(a) Developing a local juvenile justice plan based upon utilization of the resources of law enforcement, the school system, the Department of Juvenile Justice, the Department for Social Services, the Administrative Office of the Courts, and others in a cooperative and collaborative manner to prevent or discourage juvenile delinquency and to develop meaningful alternatives to incarceration;+>>

<<+(b) Entering into a written local interagency agreement specifying the nature and extent of contributions that each signatory agency will make in achieving the goals of the local juvenile justice plan;+>>

<<+(c) Sharing of information as authorized by law to carry out the interagency agreements;+>>

<<+(d) Applying for and receiving public or private grants to be administered by one (1) of the participating cities or counties or other public agencies; and+>>

<<+(e) Providing a forum for the presentation of interagency recommendations and the resolution of disagreements relating to the contents of the interagency agreement or the performance by the parties of their respective obligations under the agreement.+>>

<<+(4) Training of council members shall be the responsibility of the department.+>>

<<+(5) The Department of Juvenile Justice may provide grants to the councils to establish or enhance prevention programs.+>>

<<+(6) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A that relate to:+>>

<<+(a) The formation of councils;+>>

<<+(b) The operation of councils;+>>

<<+(c) The duties of councils; and+>>

<<+(d) The administration and operation of the grant program.+>>

SECTION 2. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

<<+(1) The Department of Juvenile Justice shall, with available funds, develop and administer a statewide detention program and, as each regional facility is constructed and ready for occupancy, shall, within appropriation limitations, provide for:+>>

<<+(a) The operation of pre-adjudication detention facilities for children charged with public offenses; and+>>
 <<+(b) The operation of post-adjudication detention facilities for children adjudicated delinquent or found guilty of public offenses.+>>
 <<+Funds appropriated for the purposes of this section shall only be used for facilities defined in KRS 15A.200.+>>
 <<+(2) In each region in which the Department of Juvenile Justice operates or contracts for the operation of a detention facility, the department shall, within appropriation limitations, develop and administer a program for alternatives to detention that shall provide for:+>>
 <<+(a) The operation of or contracting for the operation of pre-adjudication alternatives to detention and follow-up programs for children who are before the court and who enter pretrial diversion or informal adjustment programs; and+>>
 <<+(b) The operation of or contracting for the operation of post-adjudication alternatives to detention and follow-up programs, including but not limited to community-based programs, mentoring, counseling, and other programs designed to limit the unnecessary use of secure detention and ensure public safety.+>>
 <<+(3) The department shall, except as provided in Section 6 of this Act, charge counties and urban-county governments a per diem not to exceed ninety-four dollars (\$94) for lodging juveniles in state-owned or contracted pre-adjudication facilities.+>>
 <<+(4) Detention rates charged by contracting detention facilities shall not exceed the rate in effect on July 1, 1997, subject to increases approved by the department.+>>
 <<+(5) The Department of Juvenile Justice shall issue and enforce administrative regulations to govern the following:+>>
 <<+(a) Administration;+>>
 <<+(b) Intake and classification;+>>
 <<+(c) Programs and services;+>>
 <<+(d) Record-keeping;+>>
 <<+(e) Rules and discipline;+>>
 <<+(f) Transfers;+>>
 <<+(g) Reimbursement rates and conditions; and+>>
 <<+(h) Detention facility rate increases.+>>
 <<+(6) No juvenile detention facility or juvenile holding facility shall be taken over, purchased, or leased by the Commonwealth without prior approval of the fiscal court upon consultation with the jailer in the county where the facility is located. The county, upon consultation with the jailer, may enter into contracts with the Commonwealth for the holding, detention, and transportation of juveniles.+>>
 <<+(7) Administrative regulations promulgated under subsection (5) of this section shall specifically identify new requirements of the law which increase the cost of operating a juvenile facility not operated by the Department for Juvenile Justice. The administrative regulations shall identify the amount and source of funding for compliance with the new requirements.+>>

Section 3. KRS 15A.067 is amended to read as follows:

<< KY ST § 15A.067 >>

- (1) As used in this section, "facility" means any of the facilities specified in KRS 15A.200 operated by a political subdivision of the Commonwealth of Kentucky for the care of juveniles alleged to be delinquent, or adjudicated delinquent.
- (2) There is established within the Department of Juvenile Justice, a Division of Educational Services, that shall be responsible for the delivery of appropriate educational programs to incarcerated youth. Each facility shall provide educational services to adjudicated delinquents who may be ordered by the court to remain in the juvenile detention facility for an indeterminate period.
- (3) <<+Any other statutes to the contrary notwithstanding, the Department of Juvenile Justice shall have access to all educational records, public or private, of any juvenile in a facility or program or informal adjustment authorized by law.+>>
 <<+(4)+>> The Division of Educational Services shall ensure that all incarcerated youth be provided appropriate screening and educational programs as follows:
 - (a) For students identified before incarceration as having an educational disability, the Division of Educational Services shall make specially designed instruction and related services available as required by Kentucky Board of Education administrative regulations applicable to students with disabilities.
 - (b) For students incarcerated for more than fourteen (14) days, the division shall ensure that appropriate screening is provided to all youth. Screening shall include, but not be limited to, seeking the juvenile's educational record.
 - (c) For students incarcerated for more than thirty (30) days, the division shall ensure that all youth are provided an appropriate education.

<<+(5)+>><<-(4)->> The Department of Juvenile Justice shall be responsible for providing, in its contracts with private juvenile detention facilities and county jails, the specific obligations of those entities to provide educational services to incarcerated juveniles consistent with this section, including funding provisions.

<<+(6)+>><<-(5)->> The Department of Education and all local school district administrators shall cooperate with officials responsible for the operation of juvenile detention facilities and with the Division of Educational Services to ensure that all documents necessary to establish educational status and need shall follow the students who are being held in these facilities so the students can be afforded educational opportunities.

<<+(7)+>><<-(6)->> (a) Upon disposition by the juvenile court that an adjudicated juvenile shall stay in a juvenile detention facility for any period of time, the facility shall notify the juvenile's last resident school district of the student's whereabouts.

(b) Within five (5) days after the juvenile is released, the Division of Educational Services shall notify the district in which the student will reside of the youth's release and educational status and forward any educational records.

<<+(8)+>><<-(7)->> The Department of Juvenile Justice shall<<+, after consultation+>><<-collaborate->> with the Department of Education<<+, promulgate+>><<-as it promulgates->> an administrative regulation for the effective implementation of this section.

<<-(8) The Department of Education shall administer this program in cooperation with the Justice Cabinet for the 1996-97 fiscal year. Effective July 1, 1997, the Justice Cabinet shall be responsible for the implementation of this section.->>

Section 4. KRS 610.265 is amended to read as follows:

<< KY ST § 610.265 >>

(1) Any child who is accused of committing a status or public offense or of being in contempt of court may be detained in a secure juvenile detention facility or juvenile holding facility or, if neither is reasonably available, an intermittent holding facility, for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays.

(2) (a) Within twenty-four (24) hours of the start of the period of detention described in subsection (1) of this section, exclusive of weekends and holidays, a hearing shall be held by the judge or trial commissioner of the court for the purpose of determining whether the child shall be further detained. At the hearing held pursuant to this subsection, the court shall consider the nature of the offense, the child's background and history, and other information relevant to the child's conduct or condition.

(b) If the court orders the child detained further, <<+and if the child is charged with a capital offense, Class A felony, or Class B felony,+>><<- such->> detention shall occur in either a secure juvenile detention facility or a juvenile holding facility pending the child's next court appearance subject to the court's review of the detention order prior to that court appearance. <<+Any other child, ordered to be detained in a state-operated facility pursuant to the statewide detention plan, shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance. The security assessment shall be done at the facility where the juvenile is initially detained.+>>

(c) If the child is not released, the court designated worker shall notify the parent, person exercising custodial control or supervision, a relative, guardian or other responsible adult.

Section 5. KRS 610.280 is amended to read as follows:

<< KY ST § 610.280 >>

(1) (a) If a child is detained pursuant to KRS 610.265 for the alleged commission of a public offense and not released, a hearing shall be held as soon as practical, but not to exceed twenty-four (24) hours, exclusive of weekends and holidays, of the commencement of detention if the child is detained in an intermittent holding facility. If the child is detained in a secure juvenile detention facility or a juvenile holding facility, then a hearing shall be held as soon as practical, but not to exceed forty-eight (48) hours, exclusive of weekends and holidays, of the commencement of detention.

(b) If a child is detained for the alleged commission of a status offense and not released, a hearing shall be held as soon as practical, but not to exceed twenty-four (24) hours, exclusive of weekends and holidays, of the commencement of detention.

(2) The hearing shall address the following issues:

(a) If there is probable cause to believe that an offense has been committed and that the accused child committed that offense. Probable cause may be established in the same manner as in a preliminary hearing in cases involving adults accused of felonies. The child shall be afforded the right to confront and cross-examine witnesses. The Commonwealth shall bear the burden of proof and if it should fail to establish probable cause, the child shall be released and the complaint or petition dismissed unless the court determines further detention is necessary to assure the appearance of the child in court on another pending case; and

(b) In determining detention, the court shall consider the seriousness of the alleged offense, the possibility that the child would commit an offense dangerous to himself or the community pending disposition of the alleged offense, the child's prior record, if any, and whether there are other charges pending against the child. <<+Any child, ordered to be detained in a state-operated facility pursuant to the statewide detention plan, shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance. The security assessment shall be done at the facility where the juvenile is initially detained.+>>

(3) If, after completion of the detention hearing, the court is of the opinion that detention is necessary, the order shall state on the record the specific reasons for detention.

Section 6. KRS 635.060 is amended to read as follows:

<< KY ST § 635.060 >>

If in its decree the juvenile court finds that the child comes within the purview of this chapter, the court, at the dispositional hearing may:

(1) Order the child or his parents, guardian, or person exercising custodial control to make restitution or reparation to any injured person to the extent, in the sum and upon the conditions as the court determines. However, no parent, guardian, or person exercising custodial control shall be ordered to make restitution or reparation unless the court has provided notice of the hearing, provided opportunity to be heard, and made a finding that the person's failure to exercise reasonable control or supervision was a substantial factor in the child's delinquency; or

(2) Place the child on probation, home incarceration, or under supervision in the child's own home or in a suitable home or boarding home, upon the conditions that the court shall determine. A child placed on probation, home incarceration, or supervision shall be subject to the visitation and supervision of a <<+probation officer or an employee+>><<-juvenile probation officer->> of the Department of Juvenile Justice. Except as provided in KRS 635.083, a child placed on probation, home incarceration, or supervision shall remain subject to the jurisdiction of the court until the child becomes eighteen (18) years of age, unless the child is discharged prior thereto by the court, except that if a person is placed on probation, home incarceration, or supervision after the person reaches the age of seventeen (17) years and six (6) months, the probation, home incarceration, or supervision shall be for a period not to exceed one (1) year; or

(3) Commit <<+or recommit+>> the child to the custody or guardianship of the Department of Juvenile Justice, a child-caring facility, a child-placing agency authorized to care for the child, or place the child under the custody and supervision of a suitable person. If the child is detained in an approved secure juvenile detention facility, juvenile holding facility, or intermittent holding facility in accordance with KRS 15A.200 to 15A.240 at the time the child is committed <<+or recommitted+>> to the custody of the Department of Juvenile Justice, the Department of Juvenile Justice shall accept physical custody of the child, remove the child from the approved secure juvenile detention facility or juvenile holding facility, and secure appropriate placement <<+as soon as possible but not to exceed thirty-five (35)+>><<- within seven (7)->> days of the time of commitment <<+or recommitment. The Department of Juvenile Justice shall pay for the cost of detention from the date of commitment or recommitment, on the current charge, until the child is removed from the detention facility and placed+>>. All orders of commitment may include advisory recommendations the court may deem proper in the best interests of the child and of the public. The commitment or placement shall be until the age of eighteen (18), subject to <<+KRS 635.070 and to+>> the power of the court to terminate the order and discharge the child prior thereto, except that if the commitment or placement is after a person has reached the age of seventeen (17) years and six (6) months, the commitment or placement shall be for an indeterminate period not to exceed one (1) year. The court, in its discretion, upon motion by the child and with the concurrence of the Department of Juvenile Justice, may authorize an extension of commitment up to age twenty-one (21) to permit the Department of Juvenile Justice to assist the child in establishing independent living arrangements; or

(4) <<-Effective July 1, 1997, ->>If the child is fourteen (14) years of age but less than sixteen (16) years of age, order that the child be confined in an approved secure juvenile detention facility<<+,+>><<- or->> juvenile holding facility<<+, or approved detention program as authorized by the Department of Juvenile Justice+>> in accordance with KRS <<+Chapter+>> 15A<<-.200->> for a period of time not to exceed forty-five (45) days; or

(5) <<-Effective July 1, 1997, ->>If the child is sixteen (16) years of age or older, order that the child be confined in an approved secure juvenile detention facility<<+,+>><<- or->> juvenile holding facility<<+, or approved detention program as authorized by the Department of Juvenile Justice+>> in accordance with KRS <<+Chapter+>> 15A<<-.200->> for a period of time not to exceed ninety (90) days; or

(6) Any combination of the dispositions listed above.

The Department of Juvenile Justice shall pay for the confinement of children confined pursuant to subsections (4) or (5) of this section <<+in accordance with the statewide detention plan and administrative regulations implementing the

plan+>>.<<- The requirement that the Department of Juvenile Justice pay for confinement of persons confined pursuant to subsections (4) and (5) of this section shall apply only to juveniles confined on or after July 1, 1997.->>

SECTION 7. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

<<+(1) The Department of Juvenile Justice, the Cabinet for Human Resources, the Department of Corrections, the Administrative Office of the Courts, and the Kentucky State Police shall be responsible for the recording of those data elements for juveniles that are needed for the development of the centralized criminal history record information system.+>>

<<+(2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440; and+>>

<<+(3) The Department of Juvenile Justice shall provide access to Commonwealth's attorneys, county attorneys, law enforcement agencies, the Kentucky State Police, the Department of Corrections, the Cabinet for Human Resources, and the Administrative Office of the Courts to its database.+>>

SECTION 8. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

<<+The Department of Juvenile Justice shall update its database within thirty (30) days of receipt of information. The update shall include information from the:+>>

<<+(1) Offender records;+>>

<<+(2) Institutional records; and+>>

<<+(3) Administrative records.+>>

SECTION 9. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

<<+The Cabinet for Human Resources shall update its database within thirty (30) days of receipt of information. The update shall include information from:+>>

<<+(1) Offender records;+>>

<<+(2) Institutional records; and+>>

<<+(3) Administrative records.+>>

SECTION 10. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+(1) The following agencies shall, subject to restrictions imposed by state or federal law, disclose and share with each other all information they maintain on a juvenile in a facility or program or informal adjustment authorized by law:+>>

<<+(a) All sheriff's offices, police departments, and any other law enforcement agency;+>>

<<+(b) All Commonwealth's attorneys and county attorneys;+>>

<<+(c) The Attorney General;+>>

<<+(d) All jails and juvenile detention facilities, public and private;+>>

<<+(e) All courts and clerks of courts;+>>

<<+(f) The Administrative Office of the Courts;+>>

<<+(g) All departments within the Justice Cabinet; and+>>

<<+(h) All departments within the Cabinet for Human Resources.+>>

<<+(2) Except as provided in this section, all information shared by agencies specified above shall be subject to applicable confidentiality disclosure, redisclosure, and access restrictions imposed by federal or state law.+>>

<<+(3) All public or private elementary or secondary schools, vocational or business schools, or institutions of higher education shall provide all records specifically requested in writing, and pertaining to status offenders, public offenders, youthful offenders, juveniles remanded to detention, and any juvenile convicted by a court, to any of the agencies listed in subsection (1) of this section. The records or information provided pursuant to this subsection shall be subject to:+>>

<<+(a) Access or other restrictions imposed by federal or state law;+>>

<<+(b) All confidentiality restrictions imposed by federal or state law; and+>>

<<+(c) All disclosure and redisclosure restrictions imposed by federal or state law.+>>

<<+(4) Any request for records, the provision of records, the sharing of records, the disclosure of records, or the redisclosure of records shall be done for official purposes only, on a bona fide need to know basis, and only in connection with a legitimate investigation, prosecution, treatment program, or educational program.+>>

<<+(5) Information and records relating to pending litigation in Circuit Court, District Court, or a federal court and information and records relating to an ongoing investigation are not subject to disclosure or sharing under this section.+>>

<<+(6) Obtaining or attempting to obtain a record relating to a minor or by sharing or attempting to share a record relating to a minor with an unauthorized person is a violation of this section.+>>

Section 11. KRS 7.111 is amended to read as follows:

<< KY ST § 7.111 >>

(1) The Kentucky State Police, Department of Corrections, <<+the Department of Juvenile Justice, the Cabinet for Human Resources,+>> and the Administrative Office of the Courts shall provide access to their databases and the centralized

criminal history record information system and the data contained therein to other criminal justice agencies, including criminal justice statistical analysis centers, and to the Legislative Research Commission. The right of access granted herein shall not include the right to add to, delete, or alter data without permission of the agency holding the data.

(2) Criminal justice agencies and the Legislative Research Commission shall not make public information on an individual person's criminal history record where such record is protected by state or federal law or regulation.

(3) The Legislative Research Commission shall have access to information which does not identify an individual person when determined by the director of the Legislative Research Commission to be necessary for a legislative purpose.

(4) The Legislative Research Commission shall have access to individual persons' criminal history records subject to the following provisions:

(a) Access shall not include information on federal offenses or convictions;

(b) Access shall not include information on out-of-state convictions; **and**

(c) Requests for the release of the information shall be approved by the Legislative Research Commission by vote at a meeting of the Commission.

Section 12. KRS 17.151 is amended to read as follows:

<< KY ST § 17.151 >>

The Kentucky State Police shall, in cooperation with the Administrative Office of the Courts<<+, the Department of Juvenile Justice, the Cabinet for Human Resources,+>> and the Department of Corrections, be responsible for the recording of those data elements that are needed for development of the centralized criminal history record information system:

(1) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440;

(2) The Kentucky State Police shall provide access to the Administrative Office of the Courts<<+, the Department of Juvenile Justice, the Cabinet for Human Resources,+>> and the Department of Corrections to its database; and

(3) The Kentucky State Police<<+, the Department of Juvenile Justice, the Cabinet for Human Resources,+>> and the Department of Corrections shall assign the same identification number or other variable to each person whose name appears in the database.

Section 13. KRS 17.152 is amended to read as follows:

<< KY ST § 17.152 >>

All data supplied to the centralized criminal history record information system by the Kentucky State Police, Administrative Office of the Courts, <<+ the Department of Juvenile Justice, the Cabinet for Human Resources,+>> and the Department of Corrections shall be compatible with the system and shall contain both citation and personal identification numbers.

Section 14. KRS 17.150 is amended to read as follows:

<< KY ST § 17.150 >>

(1) Every sheriff, chief of police, coroner, jailer, prosecuting attorney, probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, mental hospital or institution for the retarded; State Police, state fire marshal, Board of Alcoholic Beverage Control; Cabinet for Human Resources; Transportation Cabinet; Department of Corrections; <<+Department of Juvenile Justice;+>> and every other person or criminal justice agency, except the Court of Justice, public or private, dealing with crimes or criminals or with delinquency or delinquents, when requested by the cabinet, shall:

(a) Install and maintain records needed for reporting data required by the cabinet;

(b) Report to the cabinet as and when the cabinet requests all data demanded by it, except that the reports concerning a juvenile delinquent shall not reveal his or his parents' identity;

(c) Give the cabinet or its accredited agent access for purpose of inspection; and

(d) Cooperate with the cabinet to the end that its duties may be properly performed.

(2) Intelligence and investigative reports maintained by criminal justice agencies are subject to public inspection if prosecution is completed or a determination not to prosecute has been made. However, portions of the records may be withheld from inspection if the inspection would disclose:

(a) The name or identity of any confidential informant or information which may lead to the identity of any confidential informant;

(b) Information of a personal nature, the disclosure of which will not tend to advance a wholesome public interest or a legitimate private interest;

(c) Information which may endanger the life or physical safety of law enforcement personnel; or

(d) Information contained in the records to be used in a prospective law enforcement action.

(3) When a demand for the inspection of the records is refused by the custodian of the record, the burden shall be upon the custodian to justify the refusal of inspection with specificity. Exemptions provided by this section shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this section.

(4) Centralized criminal history records are not subject to public inspection. Centralized history records mean information on individuals collected and compiled by the Justice Cabinet from criminal justice agencies and maintained in a central location consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and any disposition arising therefrom, including sentencing, correctional supervision and release. The information shall be restricted to that recorded as the result of the initiation of criminal proceedings or any proceeding related thereto. Nothing in this subsection shall apply to documents maintained by criminal justice agencies which are the source of information collected by the Justice Cabinet. Criminal justice agencies shall retain the documents and no official thereof shall willfully conceal or destroy any record with intent to violate the provisions of this section.

(5) The provisions of KRS Chapter 61 dealing with administrative and judicial remedies for inspection of public records and penalties for violations thereof shall be applicable to this section.

(6) The secretary of justice shall adopt the administrative regulations necessary to carry out the provisions of the criminal history record information system and to insure the accuracy of the information based upon recommendations submitted by the commissioner, Department of State Police.

(7) The Administrative Office of the Courts may, upon suitable agreement between the Chief Justice and the secretary of justice, supply criminal justice information and data to the cabinet. No information, other than that required by KRS 27A.350 to 27A.420 and 27A.440, shall be solicited from a circuit clerk, justice or judge, court, or agency of the Court of Justice unless the solicitation or request for information is made pursuant to an agreement which may have been reached between the Chief Justice and the secretary of justice.

SECTION 15. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

<<+The Department of Juvenile Justice shall have access to all court records, active and closed, relating to or in the custody of the juvenile session of the District Court or the Administrative Office of the Courts, or both.+>>

Section 16. KRS 27A.300 is amended to read as follows:

<< KY ST § 27A.300 >>

The Administrative Office of the Courts shall, in cooperation with the Kentucky State Police<<+, the Department of Juvenile Justice, the Cabinet for Human Resources,+>> and the Department of Corrections, be responsible for the recording of those data elements that are needed for development of the centralized criminal history record information system:

(1) The database shall at a minimum contain the information contained in KRS 27A.310 to 27A.440;

(2) The Administrative Office of the Courts shall provide access to the Kentucky State Police<<+, the Department of Juvenile Justice, the Cabinet for Human Resources,+>> and the Department of Corrections to its database; and

(3) The Administrative Office of the Courts shall, where the number is known, assign the same identification number or other variable to each person whose name appears in the database.

Section 17. KRS 164.283 is amended to read as follows:

<< KY ST § 164.283 >>

(1) As used in this section unless the context otherwise requires:

(a) "Academic" means a student's official record of academic performance, including, but not limited to transcript of grades or other action taken by the institution directly related to academic performance. The term "academic" does not include any nonacademically-related action the institution may take.

(b) "Universities and colleges" means all state supported postsecondary educational institutions in Kentucky.

(c) "Institution" means all public supported institutions of higher learning in Kentucky.

(2) All student academic records shall be confidential and shall not require a student's Social Security number to identify the student, with the exception of the exemptions stated in subsections (3) to (9) of this section, and shall not be released by any public supported institution of higher education in Kentucky, to any person, organization, institution, group or agency, except with the express consent of the individual student. This confidentiality shall apply only to student academic records, including, but not limited to official transcript of grades.

(3) All student academic records shall be made available upon request to any agency of the federal or state government for the purpose of determining a student's eligibility for military service, and shall include making such records available to local draft boards. This authority shall be limited only to determining the student's eligibility for military service and shall not be

extended, except with the individual student's consent as specified in subsection (2) of this section.

(4) Any institution may provide the legal parents of any student under twenty-one (21) years of age with a copy of the student's academic record.

(5) All student academic records shall be made available to any federal, state, or local law enforcement agency<<+, the Department of Juvenile Justice,+>> and any court of law upon <<+written+>> request<<- or issuance of a subpoena->>.

(6) All student academic records shall be made available upon request to any grantor of scholarships or loans based upon the maintenance of a satisfactory level of scholarship, but shall be for the official use of the grantors only.

(7) All student academic records shall be made available upon request to a public or private junior college from which the individual student was graduated or to a public or private secondary school from which the individual student was graduated.

(8) All student academic records shall be made available upon request to the Council on Postsecondary Education for professional academic research.

(9) All student academic records shall be made available upon request to any official of the university or college in which the student is enrolled who is directly concerned with the student's academic progress. This authority shall include but is not limited to the individual student's academic adviser.

(10) This section shall be applicable to all academic records maintained by all public postsecondary educational institutions in Kentucky.

SECTION 18. A NEW SECTION OF KRS CHAPTER 194 IS CREATED TO READ AS FOLLOWS:

<<+(1) The Cabinet for Human Resources, the Department of Juvenile Justice, the Department of Corrections, the Administrative Office of the Courts, and the Kentucky State Police, shall be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system.+>>

<<+(2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440.+>>

<<+(3) The Cabinet for Human Resources shall provide access to the Kentucky State Police, the Department of Corrections, the Department of Juvenile Justice, and the Administrative Office of the Courts to its database.+>>

Section 19. KRS 196.093 is amended to read as follows:

<< KY ST § 196.093 >>

The Department of Corrections shall, in cooperation with the Kentucky State Police<<+, the Department of Juvenile Justice, the Cabinet for Human Resources,+>> and the Administrative Office of the Courts, be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system:

(1) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440;

(2) The Department of Corrections shall provide access to the Kentucky State Police<<+, the Department of Juvenile Justice, the Cabinet for Human Resources,+>> and the Administrative Office of the Courts to its database; and

(3) The Department of Corrections shall assign the same identification number or other variable to each person whose name appears in the database.

Section 20. KRS 605.090 is amended to read as follows:

<< KY ST § 605.090 >>

(1) Unless precluded by law, any child committed to the Department of Juvenile Justice or the cabinet may by the decision of the Department of Juvenile Justice or the cabinet or its designee, at any time during the period of his commitment, be:

(a) Upon fourteen (14) days' prior written notice to the court, discharged from commitment. Written notice of discharge shall be given to the committing court and to any other parties as may be required by law;

(b) Placed in the home of his parents, a suitable foster home, or boarding home, upon such conditions as the Department of Juvenile Justice or the cabinet may prescribe and subject to visitation and supervision by a family service worker or juvenile probation and parole officer. At the time a committed child is placed in the home of his parents by the Department of Juvenile Justice or the cabinet, the parents shall be informed in writing of the conditions of the placement and the criteria that will be used to determine whether removal is necessary;

(c) Placed in one (1) of the facilities or programs operated by the Department of Juvenile Justice or the cabinet, except that<<+:>> No child committed under the provisions of KRS 610.010(1)(b), (c), or (d) <<+shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as a public offender unless the cabinet and the department agree, and the court consents, that the placement is in the best interest of the child and that the placement does not exceed a group home level;+>>

(d) Placed in a child-caring facility operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the cabinet may prescribe;

(e) Treated as provided in KRS Chapter 645;

(f) Following the transfer or placement of a child pursuant to subsections (b), (c), (d), or (e) of this section, the Department of Juvenile Justice or the cabinet shall, within fourteen (14) days, excluding weekends and holidays, give written notice to the court of the transfer, the placement, and the reasons therefor.

(2) <<+No+>><<-or any->> child ten (10) years of age or under shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as public offenders;

<<+(3)+>> If a child committed to the cabinet as dependent, neglected, or abused is placed in the home of his parents, the child shall not be removed except in accordance with the following standards and procedures:

(a) If the family service worker believes that the committed child continues to be dependent, neglected, or abused, but immediate removal is unnecessary to protect the child from imminent death or serious physical injury, the casework situation and evidence shall be reviewed with his supervisor to determine whether to continue work with the family intact or to remove the child. There shall be documentation that the family service worker, prior to the court hearing, made an effort to contact the parents to inform them of the specific problems that could lead to removal so they have an opportunity to take corrective action. If the parents are unavailable or do not respond to attempts to communicate, the specific circumstances shall be documented;

(b) If it appears that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm and there is not reasonably available an alternative less drastic than removal of the child from the home, the cabinet shall petition the District Court to review the commitment pursuant to KRS 610.120 in relation to the cabinet's intention to remove the child from the parent's home. The petition shall set forth the facts which constitute the need for removal of the child. The court shall serve notice of the petition and the time and place of the hearing on the parents; however, the family service worker shall also contact the parents to ensure that they received the notice and are aware of the right to be represented by counsel. If the parents' whereabouts are unknown, notice may be mailed to the last known address of an adult who is a near relative. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall not be removed from the parents' home;

(c) If a family service worker finds a committed, unattended child who is too young to take care of himself, the family service worker shall make reasonable efforts to arrange for an emergency caretaker in the child's home until the parents return or fail to return within a reasonable time. If no in-home caretaker is available for the child, the family service worker shall request any appropriate law enforcement officer to take the child into protective custody. If, after a reasonable time, it appears the child has been abandoned, the cabinet shall petition the District Court to review the case; or

(d) If there exist reasonable grounds to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents are unable or unwilling to protect the child, the family service worker shall, with the assistance of a law enforcement officer, immediately remove the child prior to filing a petition for review. Within seventy-two (72) hours after the removal, the cabinet shall file a petition for review in District Court pursuant to KRS 610.120 with a request for an expeditious hearing. If the court fails to find that the child's health or welfare or physical, mental or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall be returned to the parents' home.

<<+(4)+>><<-(3)->> The cabinet or the Department of Juvenile Justice, as appropriate, shall notify the juvenile court of the county of placement with the conditions of supervised placement of each child placed in that county from one (1) of the residential treatment facilities operated by the Department of Juvenile Justice or the cabinet. Notice of the conditions of such placement may be made available by the court to any law enforcement agency.

<<+(5)+>><<-(4)->> The person in charge of any home to which a child is probated, and the governing authority of any private facility or agency to which a child is committed, shall make such reports to the court as the court may require, and such reports as the Department of Juvenile Justice or the cabinet may require in the performance of its functions under the law. The Department of Juvenile Justice or the cabinet shall have the power to make such visitations and inspections of the homes, facilities, and agencies in which children who have committed public offenses have been placed as it deems necessary to carry out its functions under the law.

<<+(6)+>><<-(5)->> The Department of Juvenile Justice may assist the courts in placing children who have committed public offenses in boarding homes, and, under agreements with the individual courts, may assume responsibility for making such placements. Counties may pay or contribute towards the expenses of maintaining such children and, to the extent authorized by the fiscal court, the Department of Juvenile Justice may incur obligations chargeable to the county for such expenses.

Section 21. KRS 610.110 is amended to read as follows:

<< KY ST § 610.110 >>

- (1) The disposition shall determine the action to be taken by the court on behalf of, and in the best interest of, the child under the provisions of KRS Chapter 630 or 635.
- (2) At the disposition, all information helpful in making a proper disposition, including oral and written reports, shall be received by the court in compliance with subsection (1) of this section and relied upon to the extent of their probative value, provided that the parties or their counsel shall be afforded an opportunity to examine and controvert the reports.
- (3) The court shall<<+, and the Department of Juvenile Justice may upon request,+>> notify the law enforcement agency of the child's <<+city,+>> county<<+, or urban-county+>> of residence <<+as appropriate+>> and the law enforcement agencies where any offense was committed of the disposition of each case and of each child committed by the court who is placed in a residential treatment facility by the Department of Juvenile Justice or the cabinet.
- (4) If any court commits a child to the Department of Juvenile Justice or the cabinet, a child-caring facility, or child-placing agency, the court shall cause to be transmitted to the Department of Juvenile Justice or the cabinet, facility, or agency, as appropriate, a certified copy of the commitment order, together with a summary of the court's information concerning the child. A certified copy of the court order shall be proof of the authority of the Department of Juvenile Justice or the cabinet, facility, or agency to hold the child. Such certified order shall be sufficient authority for any law enforcement officer to take into custody any person named therein and deliver him to such a place as shall be directed by the Department of Juvenile Justice or the cabinet, facility, or agency given custody of him in the order.
- (5) In placing a child on probation in a home or boarding home, or in committing a child to a child-caring facility or child-placing agency, the court shall as far as practicable select a home, facility, or agency operated or governed by persons of a similar religious faith as the parents of the child.
- (6) Upon motion of the child and agreement of the Department of Juvenile Justice or the cabinet, as appropriate, the court may authorize an extension of commitment up to age twenty-one (21) for the purpose of permitting the Department of Juvenile Justice or the cabinet, as appropriate, to assist the child in establishing independent living arrangements if a return to the child's home is not in his best interest.

Section 22. KRS 610.320 is amended to read as follows:

<< KY ST § 610.320 >>

- (1) A special record book shall be kept by the court for all cases, to be known as the "juvenile record," and the docket or calendar of such cases shall be called the "juvenile docket."
- (2) No probation officer, nor employee of a probation officer, shall, without the consent of the District Judge sitting in juvenile session, divulge or communicate to any persons other than the court, <<+law enforcement, the Department of Juvenile Justice,+>> an officer of the court interested in the case, a member of the advisory board of the court, or a representative of the cabinet, any information obtained pursuant to the discharge of his duties, nor shall any record of the action of the probation officer be made public except by leave of the District Judge; provided, that nothing in this subsection shall prohibit the probation officer from divulging or communicating such information to the court, to his colleagues or superiors in his own department, or to another probation officer having a direct interest in the record or social history of the child.
- (3) All law enforcement and court records regarding children who have not reached their eighteenth birthday shall not be opened to scrutiny by the public, except court records, limited to the petition, order of the adjudication, and disposition in juvenile delinquency proceedings concerning a child who is adjudicated a juvenile delinquent for the commission of an offense that would constitute a capital offense or a Class A, B, or C felony if the juvenile were an adult, or any offense involving a deadly weapon, or an offense wherein a deadly weapon is used or displayed. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the Federal Social Security Act is also prohibited. Otherwise, the law enforcement records shall be made available to the child, family, guardian, or legal representative of the child involved. The records shall also be made available to the court, probation officers, <<+prosecutors, the Department of Juvenile Justice, and law enforcement agencies+>> or representatives of the cabinet. Records, limited to the child's adjudication of delinquency, and disposition of a criminal activity covered by KRS 610.345, shall also be made available to public or private elementary and secondary school administrative and counseling personnel, and to any teacher to whose class the student has been assigned for instruction, subject to the provisions of KRS 610.340 and 610.345.
- (4) Subject to the Kentucky Rules of Evidence, juvenile court records of adjudications of guilt of a child for an offense which would be a felony if committed by an adult shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial, and may be used during the sentencing phase of a criminal trial. However, the fact that a juvenile has been adjudicated delinquent of an offense which

would be a felony if the child had been an adult shall not be used in finding the child to be a persistent felony offender based upon that adjudication.

(5) This section shall not relieve the probation officer or peace officer from divulging such facts as a witness in a trial or hearing involving any cases falling under KRS Chapters 600 to 645 or the production of juvenile records for use in the trial or proceedings.

(6) This section shall not prohibit release of information regarding juvenile proceedings in the District Court which do not reveal the identity of the child or its parents or guardians, or which relate to the child's eligibility for services under Title IV-E or IV-B of the Federal Social Security Act. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court.

Section 23. KRS 610.340 is amended to read as follows:

<< KY ST § 610.340 >>

(1) <<+(a)+>> Unless a specific provision of KRS Chapters 600 to 645 specifies otherwise, all juvenile court records of any nature generated pursuant to KRS Chapters 600 to 645 by any agency or instrumentality, public or private, shall be deemed to be confidential and shall not be disclosed except to the child, parent,<<- and to the extent necessary at the proceeding to->> victims, or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070 unless ordered by the court for good cause.

<<+(b)+>> Juvenile court records which contain information pertaining to arrests, petitions, adjudications, and dispositions of a child may be disclosed to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070.

<<+(c)+>> Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the Federal Social Security Act shall not be disclosed to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070.

<<+(d) Victim access under this subsection to juvenile court records shall include access to records of adjudications that occurred prior to the effective date of this Act.+>>

(2) The provisions of this section shall not apply to public officers or employees engaged <<+in the investigation of and+>> in the prosecution of cases under KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes<<- provided that the inspection of the records and the disclosure of the information contained therein is limited to that required in the investigation and the prosecution of the case->>.

(3) The provisions of this section shall not apply to employees of the <<+ Department of Juvenile Justice or+>> cabinet or its designees responsible for any services under KRS Chapters 600 to 645 or to attorneys for parties involved in actions relating to KRS Chapters 600 to 645 or other prosecutions authorized by the Kentucky Revised Statutes<<- provided that the inspection of the records and the disclosure of the information contained therein is limited to that required in the investigation and the representation of the client in the case->>.

(4) The provisions of this section shall not apply to records disclosed pursuant to KRS 610.320 or to public or private elementary and secondary school administrative and counseling personnel, to any teacher <<+or school employee with whom the student may come in contact+>><<-to whose class the student has been assigned for instruction->>, or to persons entitled to have juvenile records under KRS 610.345, if the possession and use of the records is in compliance with the provisions of KRS 610.345 and this section.

(5) No person, including school personnel, shall disclose any record or any information contained therein except as permitted by this section or other specific section of KRS Chapters 600 to 645, or except as permitted by specific order of the court.

(6) No person, including school personnel, authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain records to which he is not entitled or for purposes for which he is not permitted to obtain them pursuant to KRS Chapters 600 to 645.

(7) No person, including school personnel, not authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain records which are made confidential pursuant to KRS Chapters 600 to 645 except upon proper motion to a court of competent jurisdiction.

(8) No person shall destroy or attempt to destroy any record required to be kept pursuant to KRS Chapters 600 to 645 unless the destruction is permitted pursuant to KRS Chapters 600 to 645 and is authorized by the court upon proper motion and good cause for the destruction being shown.

(9) As used in this section the term "KRS Chapters 600 to 645" includes any administrative regulations which are lawfully promulgated pursuant to KRS Chapters 600 to 645.

Section 24. KRS 197.045 is amended to read as follows:

<< KY ST § 197.045 >>

(1) Any person convicted and sentenced to a state penal institution may receive a credit on his sentence of not exceeding ten (10) days for each month served, except as otherwise provided in this section, to be determined by the department from the conduct of the prisoner. In addition, the department shall provide an educational good time credit of sixty (60) days to any prisoner who successfully receives a graduate equivalency diploma or a high school diploma, a two (2) or four (4) year college degree, or a two (2) year or four (4) year certification in applied sciences, or who receives a technical education diploma as provided and defined by the department; prisoners may earn additional credit for each program completed. The department may forfeit any good time previously earned by the prisoner, or deny the prisoner the right to earn good time in any amount, if, during the term of imprisonment, a prisoner commits any offense or violates the rules of the institution.

(2) When two (2) or more consecutive sentences are to be served, the several sentences shall be merged and served in the aggregate for the purposes of the good time credit computation or in computing dates of expiration of sentence.

(3) An inmate may, at the discretion of the commissioner, be allowed a deduction from a sentence not to exceed five (5) days per month for performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations and programs. The allowance shall be an addition to commutation of time for good conduct and under the same terms and conditions and without regard to length of sentence.

(4) <<+Until successful completion of the sex offender treatment program, a sex offender may earn good time. However, the good time shall not be credited to the sex offender's sentence. Upon the successful completion of the sex offender treatment program, as determined by the program director, the offender shall be eligible for all good time earned but not otherwise forfeited under administrative regulations promulgated by the Department of Corrections. After successful completion of the sex offender treatment program, a sex offender may continue to earn good time in the manner provided by administrative regulations promulgated by the Department of Corrections. Any sex offender, as defined in KRS 197.410, who has not successfully completed the sex offender treatment program as determined by the program director shall not be entitled to the benefit of any credit on his sentence. A sex offender who does not complete the sex offender treatment program for any reason shall serve his entire sentence without benefit of good time, parole, or other form of early release. The provisions of this section shall not apply to any sex offender convicted before the effective date of this section or to any mentally retarded sex offender.+>>>

<<+(5)+>>> (a) The Department of Corrections shall, by administrative regulation, specify the length of forfeiture of good time and the ability to earn good time in the future for those inmates who have civil actions dismissed because the court found the action to be malicious or harassing, or if satisfied that the action is legally without merit or factually frivolous.

(b) Penalties set by administrative regulation pursuant to this subsection shall be as uniform as practicable throughout all institutions operated by, under contract to, or under the control of the department and shall specify a specific number of days or months of good time forfeited as well as any prohibition imposed on the future earning of good time.

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

<<+(1) In addition to the penalties authorized by law, any person convicted of, pleading guilty to, or entering an Alford plea to a felony offense under KRS Chapter 510, 530.020, 530.064, or 531.310 shall be sentenced to a period of conditional discharge following release from:+>>>

<<+(a) Incarceration upon expiration of sentence; or+>>>

<<+(b) Completion of parole.+>>>

<<+(2) The period of conditional discharge shall be three (3) years.+>>>

<<+(3) During the period of conditional discharge, the defendant shall:+>>>

<<+(a) Be subject to all orders specified by the Department of Corrections; and+>>>

<<+(b) Comply with all education, treatment, testing, or combination thereof required by the Department of Corrections.+>>>

<<+(4) Persons under conditional discharge pursuant to this section shall be subject to the supervision of the Division of Probation and Parole.+>>>

<<+(5) If a person violates a provision specified in subsection (3) of this section, the violation shall be reported in writing to the Commonwealth's attorney in the county of conviction. The Commonwealth's attorney may petition the court to revoke the defendant's conditional discharge and reincarcerate the defendant for no longer than the time remaining on the conditional discharge.+>>>

<<+(6) The provisions of this section shall apply only to persons convicted, pleading guilty, or entering an Alford plea after the effective date of this Act.+>>>

Section 26. KRS 15A.030 is amended to read as follows:

<< KY ST § 15A.030 >>

The Justice Cabinet, in addition to the departments set forth in KRS 15A.020, shall consist of the following organizational units which are hereby created or reestablished:

(1) Office of secretary of justice comprised of the secretary of justice, the Commission on Correction and Community Service, the Kentucky State Corrections Commission, and the <<+Criminal Justice Council+>><<-Kentucky Crime Commission->>. The Parole Board shall be attached to the Office of the Secretary for administrative <<+and support+>> purposes only.

(2) Offices of deputy secretaries of justice.

(3) Office of the general counsel.

(4) Medical examiner service program.

Section 27. KRS 15A.040 is amended to read as follows:

<< KY ST § 15A.040 >>

(1) The <<+Criminal Justice Council+>><<-Kentucky Crime Commission->> shall advise and recommend to the <<+Governor and the General Assembly+>><<-secretary->> policies and direction for<<- departmental->> long-range planning regarding all elements of the criminal justice system<<+. The council shall review and make written recommendations on subjects including but not limited to administration of the criminal justice system, the rights of crime victims, sentencing issues, capital litigation, a comprehensive strategy to address gangs and gang problems, and the Penal Code. Recommendations for these and all other issues shall be submitted to the Governor and the Legislative Research Commission at least six (6) months prior to every regular session of the Kentucky General Assembly. The council shall:>>

<<+(a) Make recommendations to the justice secretary with respect to the award of state and federal grants and ensure that the grants are consistent with the priorities adopted by the Governor, the General Assembly, and the council;>>

<<+(b) Conduct comprehensive planning to promote the maximum benefits of grants;>>

<<+(c) Develop model criminal justice programs;>>

<<+(d) Disseminate information on criminal justice issues and crime trends;>>

<<+(e) Work with community leaders to assess the influence of gangs and the problems that gangs cause for local communities, assist local communities in mobilizing community resources to address their problems, sponsor multidisciplinary training to help communities focus on proven strategies to address gang problems, and conduct an ongoing assessment of gang problems in local communities;>>

<<+(f) Recommend any modifications of law necessary to insure that the laws adequately address problems identified in local communities relating to gangs;>>

<<+(g) Provide technical assistance to all criminal justice agencies; and>>

<<+(h) Review and evaluate proposed legislation affecting criminal justice; and>>

<<+(i) All reports and proposed legislation shall be presented to the Interim Joint Committee on Judiciary not later than July 1 of the year prior to the beginning of each regular session of the General Assembly>><<-and shall exercise supervisory authority with respect to federal and state grants as required by federal or state law->>.

(2) <<-Total ->>Membership of the <<+Criminal Justice Council shall consist of the following:>>

<<+(a) The secretary of the Justice Cabinet or his designee;>>

<<+(b) The director of the Administrative Office of the Courts or his designee;>>

<<+(c) The Attorney General or his designee;>>

<<+(d) Two (2) members of the House of Representatives as designated by the Speaker of the House;>>

<<+(e) Two (2) members of the Senate as designated by the President of the Senate;>>

<<+(f) A crime victim, as defined in KRS Chapter 346, to be selected and appointed by the Governor;>>

<<+(g) A victim advocate, as defined in KRS 421.570, to be selected and appointed by the Governor;>>

<<+(h) A Kentucky college or university professor specializing in criminology, corrections, or a similar discipline to be selected and appointed by the Governor;>>

<<+(i) The public advocate or his designee;>>

<<+(j) The president of the Kentucky Sheriffs Association;>>

<<+(k) The commissioner of state police or his designee;>>

<<+(l) A person selected by the Kentucky State Lodge of the Fraternal Order of Police;>>

<<+(m) The president of the Kentucky Association of Chiefs of Police;>>

<<+(n) A member of the Prosecutors Advisory Council as chosen by the council;>>

<<+(o) The Chief Justice or a justice or judge designated by him;>>

<<+(p) One (1) member of the Kentucky Association of Criminal Defense Lawyers, appointed by the president of the organization;>>

<<+(q) One (1) member of the Kentucky Jailer's Association appointed by the president of the organization;+>>

<<+(r) One (1) member of the Circuit Clerk's Association;+>>

<<+(s) Three (3) criminal law professors, one each from the University of Kentucky College of Law, the Louis D. Brandeis School of Law at the University of Louisville, and the Salmon P. Chase College of Law at Northern Kentucky University, to be selected and appointed by the Governor;+>>

<<+(t) One (1) District Court Judge, designated by the Chief Justice;+>>

<<+(u) One (1) Circuit Court Judge, designated by the Chief Justice;+>>

<<+(v) One (1) Court of Appeals Judge, designated by the Chief Justice;+>>

<<+(w) One (1) representative from an organization dedicated to restorative principles of justice involving victims, the community, and offenders; and+>>

<<+(x) One (1) individual with a demonstrated commitment to youth advocacy, to be selected and appointed by the Governor+>><<-Kentucky Crime Commission and the appointment of members thereto shall be determined and made by the Governor->>.

<<+(3)+>> The secretary of justice shall serve ex officio as chairman of the <<+council+>><<-commission->>. <<+Each member of the council shall have one (1) vote.+>> Members of the <<+council+>><<- commission->> shall serve without compensation, but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties.

<<+(4) The council shall meet at least once every three (3) months.+>>

<<+(5) The council may hold additional meetings;+>>

<<+(a) On the call of the chairman;+>>

<<+(b) At the request of the Governor to the chairman; or+>>

<<+(c) At the written request of the members to the chairman, signed by a majority of the members.+>>

<<+(6) Two-thirds (2/3) members of the council shall constitute a quorum for the conduct of business at a meeting.+>>

<<+(7) Failure of any member to attend two (2) meetings within a six (6) month period shall be deemed a resignation from the council and a new member shall be named by the appointing authority.+>>

<<+(8) The council is authorized to establish committees and appoint additional persons who may not be members of the council as necessary to effectuate its purposes, including but not limited to:+>>

<<+(a) Uniform Criminal Justice Information System committee;+>>

<<+(b) Committee on sentencing; and+>>

<<+(c) Penal Code committee.+>>

<<+(9) The council's administrative functions shall be performed by a full-time executive director appointed by the secretary of the Justice Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities.+>>

SECTION 28. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+(1) There is hereby established the Kentucky Unified Criminal Justice Information System, referred to in this chapter as the "system." The system shall be a joint effort of the criminal justice agencies and the courts. Notwithstanding any statutes, administrative regulations, and policies to the contrary, if standards and technologies other than those set out in KRS 61.940 to 61.953 are required, the Commonwealth's chief information officer shall review, expedite, and grant appropriate exemptions to effectuate the purposes of the unified criminal justice information system. Nothing in this section shall be construed to hamper any public officer or official, agency, or organization of state or local government from furnishing information or data that they are required or requested to furnish and which they are allowed to procure by law, to the General Assembly, the Legislative Research Commission, or a committee of either. For the purposes of this section, "criminal justice agencies" include all departments of the Justice Cabinet, the Unified Prosecutorial System, Commonwealth's attorneys, county attorneys, the Transportation Cabinet, the Cabinet for Human Resources, and any agency with the authority to issue a citation or make an arrest.+>>

<<+(2) The program to design, implement, and maintain the system shall be under the supervision of the uniform criminal justice information system committee of the Criminal Justice Council. The membership of this committee shall be determined by the council, upon the recommendation of the Governor's chief information officer, who shall chair the committee.+>>

<<+(3) The committee shall be responsible for recommending standards, policies, and other matters to the secretary of justice for promulgation of administrative regulations in accordance with KRS Chapter 13A to implement the policies, standards, and other matters relating to the system and its operation.+>>

<<+(4) The committee shall submit recommendations to the Criminal Justice Council and the secretary of justice for administrative regulations to implement the uniform policy required to operate the system. The committee shall implement the uniform policy.+>>

<<+(5) The uniform policy shall include a system to enable the criminal justice agencies and the courts to share data stored in

each other's information systems. Initially, the uniform policy shall maximize the use of existing databases and platforms through the use of a virtual database created by network linking of existing databases and platforms among the various departments. The uniform policy shall also develop plans for the new open system platforms before the existing platforms become obsolete.+>>

<<+(6) The committee shall be responsible for recommending to the Criminal Justice Council and the secretary of justice any necessary changes in administrative regulations necessary to implement the system. The committee shall also recommend to the Criminal Justice Council, the Chief Justice, and the secretary of justice recommendations for statutory additions or changes necessary to implement and maintain the system. The secretary shall be responsible for reporting approved statutory recommendations to the Governor, the Chief Justice, the Legislative Research Commission, and appropriate committees of the General Assembly.+>>

<<+(7) The chair of the committee shall report annually to the Criminal Justice Council on the status of the system.+>>

<<+(8) All criminal justice agencies shall follow the policies established by administrative regulation for the exchange of data and connection to the system.+>>

<<+(9) The committee shall review how changes to existing criminal justice agency applications impact the new integrated network. Changes to criminal justice agency applications that have an impact on the integrated network shall be coordinated through and approved by the committee.+>>

<<+(10) Any future state-funded expenditures by a criminal justice agency for computer platforms in support of criminal justice applications shall be reviewed by the committee.+>>

<<+(11) Any criminal justice agency or officer that does not participate in the criminal justice information system may be denied access to state and federal grant funds.+>>

SECTION 29. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+(1) The Kentucky State Police shall design, implement, and maintain an automated fingerprint identification system.+>>

<<+(2) The automated fingerprint identification system shall be compatible with any similar system required by the federal government for inclusion of state information in federal criminal justice databases.+>>

<<+(3) The Commonwealth shall provide and maintain in every detention center the automated fingerprint identification system equipment and programs required by the Kentucky State Police through administrative regulation.+>>

SECTION 30. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

<<+(1) All persons arrested or detained in any adult or juvenile detention facility shall be fingerprinted.+>>

<<+(2) The jailer may fingerprint persons for other law enforcement agencies.+>>

<<+(3) The jailer shall submit the fingerprints to the Kentucky State Police in the manner and at the time required by the Kentucky State Police through administrative regulation.+>>

Section 31. KRS 610.300 is amended to read as follows:

<< KY ST § 610.300 >>

(1) Physical evidence shall be obtained and utilized in the investigation of public offenses involving children in the same manner as it is obtained and utilized in the investigation of public offenses involving adults.

(2) <<+Except for fingerprint records,+>> all records and physical evidence so obtained shall be surrendered to the court upon motion for good cause shown<<- or upon elimination of the child as a suspect in the case->>. <<+All records, including fingerprint records, shall be subject to expungement in the manner provided in KRS 431.076 for circumstances specified therein.+>>

(3) The court shall, upon receipt of physical evidence, return any evidence, which is not contraband and is not needed for further prosecution, to its lawful owner. <<+The fingerprint cards created pursuant to KRS Chapters 600 to 645 shall be transferred pursuant to KRS 17.110.+>>

Section 32. KRS 431.520 is amended to read as follows:

<< KY ST § 431.520 >>

Any person charged with an offense shall be ordered released by a court of competent jurisdiction pending trial on his personal recognizance or upon the execution of an unsecured bail bond in an amount set by the court or as fixed by the Supreme Court as provided by KRS 431.540, unless the court determines, in the exercise of its discretion that such a release will not reasonably assure the appearance of the person as required. When such a determination is made, the court shall, either in lieu of or in addition to the above methods of release, impose any of the following conditions of release:

(1) Place the person in the custody of a designated person or organization agreeing to supervise him;

(2) Place restrictions on the travel, association, or place of abode of the person during the period of release;

(3) Require the execution of a bail bond:

(a) With sufficient personal surety or sureties acceptable to the court; in determining the sufficiency of such surety, or sureties, the court shall consider his character, his place of residence, his relationship with the defendant and his financial and employment circumstances; or

(b) With the 10% deposit as provided in KRS 431.530; or

(c) With the deposit of cash equal to the amount of the bond or in lieu thereof acceptable security as provided in KRS 431.535;

(4) <<+If the person's record indicates a history of controlled substance or alcohol abuse, order the person to submit to periodic testing for use of controlled substances or alcohol and pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court with the fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. If the person is declared indigent, the testing fee may be waived by the court. The Administrative Office of the Courts shall establish pilot projects to implement the provisions of this subsection;+>>

<<+(5)+>> Impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours;

<<+(6)+>><<-(5)->> A court authorizing the release of a person pursuant to this section shall cause the issuance of an appropriate order containing a statement of the conditions imposed, if any, shall cause such person to be informed of the penalties applicable to violations of the conditions of his release, and shall cause him to be informed that a warrant for his arrest will be issued immediately upon any such violation;

<<+(7)+>><<-(6)->> A person for whom conditions of release are imposed and who after twenty-four (24) hours from the time of the imposition of said conditions continues to be detained as a result of his inability to meet the conditions of release, shall, upon written application or upon the court's own motion, be entitled to have the conditions reviewed by the court which imposed them. A person who is ordered released on a condition which requires that he return to custody after specified hours shall, upon written application or upon the court's own motion, be entitled to a review by the court which imposed the condition;

<<+(8)+>><<-(7)->> If at any time following release of a defendant and before he is required to appear for trial, the court is advised of a material change in the defendant's circumstances or that he has not complied with all conditions imposed upon his release, the court having jurisdiction may: (a) order the arrest of the defendant, (b) enter an order requiring the defendant, his surety or sureties to appear and show cause why the bail bond should not be forfeited or the conditions of his release be changed, or (c) both. A copy of said order shall be served upon the defendant, his surety or sureties. If the defendant fails to appear before the court as ordered or if, after hearing, the court finds the conditions of release have not been complied with, the court may change the conditions imposed or forfeit the bail bond or any portion thereof and enter a judgment for the Commonwealth against the defendant and his surety or sureties for the amount of the bail bond or any portion thereof and cost of the proceedings.

Section 33. KRS 431.525 is amended to read as follows:

<< KY ST § 431.525 >>

(1) The amount of the bail shall be:

(a) Sufficient to insure compliance with the conditions of release set by the court;

(b) Not oppressive;

(c) Commensurate with the nature of the offense charged;

(d) Considerate of the past criminal acts and the reasonably anticipated conduct of the defendant if released; and

(e) Considerate of the financial ability of the defendant.

(2) When a person is charged with an offense punishable by fine only<<+,+>> the amount of the bail bond set shall not exceed the amount of the maximum penalty and costs<<+,+>><<-;->>

(3) When a person has been convicted of an offense and only a fine has been imposed<<+,+>> the amount of the bail shall not exceed double the amount of the fine.

<<+(4) The Administrative Office of the Courts shall establish pilot projects to implement controlled substance or alcohol abuse testing as specified under this subsection. If the person's record indicates a history of controlled substance or alcohol abuse, the court may order the person to submit to periodic testing for use of controlled substances or alcohol and to pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court, with the fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. If the person is

declared indigent, the testing fee may be waived by the court. If the court finds the conditions of release have not been complied with, the court may change the conditions imposed or forfeit the bail bond or any portion thereof and enter a judgment for the Commonwealth against the person and his surety or sureties for the amount of the bail bond or any portion thereof and the cost of the proceedings.+>>

SECTION 34. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

<<+(1) The council shall direct the design of an automated warrant system.+>>

<<+(2) The automated warrant system shall be compatible with any similar system required by the federal government for inclusion of state information in federal criminal justice databases.+>>

Section 35. KRS 30A.080 is amended to read as follows:

<< KY ST § 30A.080 >>

(1) Every clerk shall maintain <<+all+>><<-such->> records, files, dockets<<+,+>> and indexes as are prescribed by statute or rule.

(2) All necessary record books and all necessary supplies required by the clerk's office shall be procured through the Administrative Office of the Courts and paid for by the Court of Justice.

(3) No clerk shall permit the records or papers of his office to be taken out of his office except in case of invasion or insurrection, or other catastrophe, or pursuant to rule or order of court, and then he shall cause them to be returned as soon as the necessity for the removal ceases to exist.

(4) Records may be permanently transferred from the clerk's office by rule or order of the Supreme Court.

Section 36. KRS 346.030 is amended to read as follows:

<< KY ST § 346.030 >>

(1) There is hereby created a board, to be known as the Crime Victims Compensation Board. <<+The+>><<-Such->> board shall consist of five (5) members not all of whom shall be engaged in the same occupation or profession<<+, at least one (1) of whom shall be a victim as defined in KRS 421.500(1) or a victim advocate as defined in KRS 421.570(1),+>> and the<<-said->> board shall be appointed by the Governor.

(2) The term of office of each such member shall be four (4) years, except that of the members first appointed two (2) shall serve for terms of four (4) years, two (2) shall serve for terms of three (3) years and one (1) shall serve for a term of two (2) years, respectively. Any member appointed to fill a vacancy occurring otherwise than by expiration of a term shall be appointed for the remainder of the unexpired term.

(3) The Governor shall designate one (1) member of the board as chairman thereof, to serve as such at the pleasure of the Governor.

(4) The Governor shall establish the compensation of the members of the board pursuant to the provisions of KRS 64.640.

<<+(5) Each new board member shall receive training on the dynamics of domestic violence, child abuse, sexual assault, homicide, and other violent crimes and the criminal justice process.+>>

Section 37. KRS 346.060 is amended to read as follows:

<< KY ST § 346.060 >>

(1) A claim form may be filed by a person eligible to receive an award, as provided in KRS 346.050, or, if such person is a minor, by his parent or guardian.

(2) A claim form must be filed by the claimant not later than <<+five (5) years+>><<-one (1) year->> after the occurrence of the criminally injurious conduct upon which such claim is based, or not later than <<+five (5) years+>><<-one (1) year->> after the death of the victim, provided, however, that upon good cause shown, the board may extend the time for filing if, in a particular case, the interest of justice so requires.

(3) Claims shall be filed in the office of the board in person or by mail. Only printed claim forms supplied by the board shall be accepted. The board shall accept for filing all claims submitted by persons eligible under subsection (1) of this section and alleging the jurisdiction requirements set forth in this chapter and meeting the requirements as to form in the rules and regulations of the board.

(4) Upon filing of a claim pursuant to this chapter, the board shall promptly notify the United States attorney (if a federal offense is involved), the Commonwealth's attorney or county attorney of the county wherein the crime is alleged to have occurred. If, within ten (10) days after such notification, such United States attorney, Commonwealth's attorney or county attorney advises the board that a criminal prosecution is pending upon the same alleged crime and requests that action by the board be deferred, the board shall defer all proceedings under this chapter until such time as such criminal prosecution has

been concluded and shall so notify such United States attorney, Commonwealth's or county attorney, and the claimant. When such criminal prosecution has been concluded such United States attorney, Commonwealth's or county attorney shall promptly so notify the board. Nothing in this section shall limit the authority of the board to grant emergency awards pursuant to KRS 346.120.

Section 38. KRS 346.130 is amended to read as follows:

<< KY ST § 346.130 >>

(1) No award shall be made unless the board or board member, as the case may be, finds that:

(a) Criminally injurious conduct occurred;

(b) Such criminally injurious conduct resulted in personal physical or psychological injury to, or death of, the victim; and

(c) Police records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police records show that such report was made more than forty-eight (48) hours after the occurrence of such crime unless the board, for good cause shown, finds the delay to have been justified.

(2) The board upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies shall deny, reconsider, or reduce an award.

(3) Any award made pursuant to this chapter shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services, including mental health counseling, necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury. Mental health counseling shall be paid for a maximum of two (2) years, but only after proper documentation is submitted to the board stating what treatment is planned and for what period of time.<<- A six (6) months' progress report will also be required by the board.->> The board shall have the power to discontinue mental health counseling at any time within the two (2) year period. Replacement of eyeglasses and other corrective lenses shall be included in an award, provided they were broken or damaged during the crime.

(4) Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this chapter be in an amount equal to the actual loss sustained; provided, however, that no such award shall exceed one hundred fifty dollars (\$150) for each week of lost earnings or support. The claimant or victim must have been employed at the time the crime occurred. Said employment shall be verified by the staff of the board after information is provided by the claimant or victim. Should the claimant or victim fail to supply the board with the information requested, the portion of the claim for lost wages or support shall be denied. If there are two (2) or more persons entitled to an award as a result of the injury or death of a person which is the direct result of criminally injurious conduct, the award shall be apportioned by the board among the claimants.

(5) The board is authorized to set a reasonable limit for the payment of funeral and burial expenses which shall include funeral costs, a monument, and grave plot. In no event shall an award for funeral expenses exceed <<+five thousand+>><<-thirty-five hundred->> dollars <<+(\$5,000)+>><<- (\$3,500)->>.

(6) Any award made under this chapter shall not exceed twenty-five thousand dollars (\$25,000).

(7) No award shall be made for any type of property loss or damage.

SECTION 39. A NEW SECTION OF KRS 421.500 TO 421.575 IS CREATED TO READ AS FOLLOWS:

<<+(1) In order to establish the minimum conduct of criminal justice professionals with respect to crime victims and to communicate the intent of the General Assembly that victims of crime play an integral role in the criminal justice process, KRS 421.500 to 421.575 is hereby named the Kentucky Crime Victim Bill of Rights.+>>

<<+(2) The rights established by KRS 421.500 to 421.575 shall apply in all felony and misdemeanor proceedings in a District or Circuit Court of the Commonwealth.+>>

<<+(3) Nothing in KRS 421.500 to 421.575 shall provide grounds for the victim to challenge a charging decision or a conviction, to obtain a stay of trial, or to compel a new trial. Law enforcement agencies, county attorneys, and Commonwealth's attorneys and courts shall make every reasonable effort to ensure that victims of crime receive the benefits of the rights set out in KRS 421.500 to 421.575.+>>

Section 40. KRS 421.500 is amended to read as follows:

<< KY ST § 421.500 >>

(1) As used in KRS <<+421.500 to 421.575+>><<-421.510 to 421.550->>, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime classified as <<+stalking, unlawful imprisonment, use of a minor in a sexual performance, unlawful transaction with a minor in the first degree, terroristic threatening, menacing, harassing communications, intimidating a witness,+>> criminal homicide, robbery, rape,

assault, sodomy, kidnapping, burglary in the first or second degree, sexual abuse, wanton endangerment, criminal abuse, or incest. If the victim is a minor or legally incapacitated, "victim" means a parent, guardian, custodian or court-appointed special advocate. If the victim is deceased and the relation is not the defendant, the following relations shall be designated as "victim" for the purpose of exercising those rights contained in KRS <<+421.500 to 421.575+>><<-421.510 to 421.540->>:

(a) The spouse;

(b) An adult child if paragraph (a) of this subsection does not apply;

(c) A parent if paragraphs (a) and (b) of this subsection do not apply;

(d) A sibling if paragraphs (a) through (c) of this subsection do not apply; and

(e) A grandparent if paragraphs (a) through (d) of this subsection do not apply.

(2) If any court believes that the health, safety, or welfare of a victim who is a minor or is legally incapacitated would not otherwise adequately be protected, the court may appoint a special advocate to represent the interest of the victim and to exercise those rights provided for by KRS <<+421.500 to 421.575+>><<-421.510 to 421.540->>. Communication between the victim and the special advocate shall be privileged.

(3) Law enforcement personnel shall ensure that victims receive information on available <<+protective,+>> emergency, social, and medical services upon initial contact with the victim and are given information on the following as soon as possible:

(a) Availability of crime victim compensation where applicable;

(b) Community based treatment programs;

(c) The criminal justice process as it involves the participation of the victim or witness;

(d) The arrest of the accused; and

(e) How to <<+register to be notified when+>><<-find out if->> a person has been released from <<+prison,+>> jail<<+,+>><<- or->> a juvenile detention facility<<+, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A+>>.

(4) Law enforcement officers and attorneys for the Commonwealth shall provide information to victims and witnesses on how they may be protected from intimidation, harassment, and retaliation as defined in KRS 524.040, 524.045 or 524.055.

(5) Attorneys for the Commonwealth shall make a reasonable effort to insure that:

(a) All victims and witnesses who are required to attend criminal justice proceedings are notified promptly of any scheduling changes that affect their appearances;

(b) If victims so desire and if they provide the attorney for the Commonwealth with a current address and telephone number, they shall receive prompt notification, if possible, of judicial proceedings relating to their case, including the defendant's release on bond <<+and any special conditions of release+>>; of the charges against the defendant, the defendant's pleading to the charges, and the date set for the trial; of notification of changes in the custody of the defendant and changes in trial dates; of the verdict, the victim's right to make an impact statement for consideration by the court at the time of sentencing of the defendant, the date of sentencing, the victim's right to receive notice of any parole board hearing held for the defendant, and that the office of Attorney General will notify the victim if an appeal of the conviction is pursued by the defendant; and

(c) The victim knows how to <<+register to be notified when+>><<-find out if->> a person has been released from <<+a prison,+>> jail<<+,+>><<- or->> a juvenile detention facility<<+, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A;+>>

<<+(d) The victim receives information on available:+>>

<<+1. Protective, emergency, social, and medical services;+>>

<<+2. Crime victim compensation, where applicable;+>>

<<+3. Restitution, where applicable;+>>

<<+4. Assistance from a victim advocate; and+>>

<<+5. Community-based treatment programs; and+>>

<<+(e) The victim of crime may pursuant to Section 50 of this Act receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts+>>

(6) The victim shall be consulted by the attorney for the Commonwealth on the disposition of the case including dismissal, release of the defendant pending judicial proceedings, <<+any conditions of release,+>> a negotiated plea, and entry into a pretrial diversion program.

(7) In prosecution for offenses listed in this section for the purpose of defining "victim," law enforcement agencies and attorneys for the Commonwealth shall promptly return a victim's property held for evidentiary purposes unless there is a compelling reason for retaining it. Photographs of such property shall be received by the court as competent evidence in accordance with the provisions of KRS 422.350.

(8) A victim or witness who so requests shall be assisted by law enforcement agencies and attorneys for the Commonwealth in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work.

(9) The Attorney General, where possible, shall provide technical assistance to law enforcement agencies and attorneys for the Commonwealth if such assistance is requested for establishing a victim assistance program.

(10) If a defendant seeks appellate review of a conviction and the Commonwealth is represented by the Attorney General, the Attorney General shall make a reasonable effort to notify victims promptly of the appeal, the status of the case, and the decision of the appellate court.

Section 41. KRS 421.510 is amended to read as follows:

<< KY ST § 421.510 >>

(1) Where the victim is less than sixteen (16) years old and the crime is a sexual offense including violations of KRS 510.040 to 510.150, 530.020, <<+ 530.064+>><<-530.065->>, 530.070, 531.310, 531.320, and 531.370, a speedy trial may be scheduled as provided in subsection (2) of this section.

(2) The court, upon motion by the attorney for the Commonwealth for a speedy trial, shall set a hearing date on the motion within ten (10) days of the date of the motion. If the motion is granted, the trial shall be scheduled within ninety (90) days from the hearing date.

(3) In ruling on any motion or other request for a delay or continuance of the proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.

Section 42. KRS 346.185 is amended to read as follows:

<< KY ST § 346.185 >>

(1) There is established in the State Treasury the "Crime Victims' Compensation Fund," hereinafter referred to as the "fund," to be administered by the Crime Victims' Compensation Board. In all cases in which defendants plead or are found guilty of a crime as defined in KRS 500.080(2), there shall be imposed as an additional cost the sum of <<+twenty+>><<-ten->> dollars <<+ (\$20)+>><<-(\$10)->>. This sum shall not be suspended or probated. This sum shall be collected in its entirety and shall not be prorated. The clerk of the court shall collect the cost and forward it monthly to the State Treasurer, to be deposited in the fund. Nothing herein shall be construed to limit the power of the court to order additional forms of restitution including public or charitable work or reparation to the victim, to the fund, or otherwise as authorized by law.

(2) The fund shall consist of moneys from the following: appropriations by the General Assembly; the federal government; payments by the defendant pursuant to subsection (1) of this section and any other public or private source. Any unexpended balance remaining in the fund at the end of the biennium shall not lapse and be transferred to the general fund, but shall remain in the crime victims' compensation fund. Any funds not utilized by the board shall be used to provide assistance to programs for victims and the board shall allocate such funds to any agency providing services to victims. In the event there are insufficient funds in the fund to pay all claims in full, all claims shall be paid at seventy percent (70%). If there are no moneys in the fund, then no claim shall be paid until moneys have again accumulated. In addition to payment of claims, moneys in the fund shall be used to pay all the necessary and proper expenses of the Crime Victims' Compensation Board.

(3) When judgment is entered against a defendant as provided in this section and each sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the State of Kentucky to such defendant an amount equal to the unpaid amount of the judgment. The amount shall be paid to the crime victims' compensation fund and satisfaction of the judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for judgment.

Section 43. KRS 23A.205 is amended to read as follows:

<< KY ST § 23A.205 >>

(1) Court costs for a criminal case in the Circuit Court shall be <<+ seventy-five+>><<-fifty-five->> dollars <<+(\$75), which shall include the fee mandated in KRS 346.185+>><<-(\$55)->>.

(2) <<+Except as provided in KRS 346.185,+>> taxation of costs against a defendant, upon conviction, may be probated or suspended at the discretion of the court.

(3) Additional fees shall be charged in Circuit Court criminal matters as follows:

(a) Preparing a certification \$1.00

(b) Preparing a copy of a document (per page). \$0.15

(4) The additional fees required by subsection (3) of this section shall be paid to the clerk at the time the service is requested.

(5) The circuit clerk shall monthly pay five dollars (\$5) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the Administrative Office of the Courts the amounts paid to the sheriff.

SECTION 44. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

<<+(1) The Court shall collect the crime victim compensation fee specified in KRS 346.185 when court costs are collected. The fee shall be forwarded by the Circuit Clerk to the State Treasurer at the time costs are transferred to the State Treasurer.+>>

<<+(2) The collection of crime victim compensation fees shall be accounted for as a separate item to the State Treasurer and the Administrative Office of the Courts.+>>

SECTION 45. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

<<+(1) Restitution to a named victim, if there is a named victim, shall be ordered in a manner consistent, insofar as possible, with the provisions of this section and Sections 46, 47, 48, and 49 of this Act in addition to any other part of the penalty for any offense under this chapter. The provisions of this section shall not be subject to suspension or nonimposition.+>>

<<+(2) If pretrial diversion is granted, restitution shall be a part of the diversion agreement.+>>

<<+(3) If probation, shock probation, conditional discharge, or other alternative sentence is granted, restitution shall be a condition of the sentence.+>>

<<+(4) If a person is sentenced to incarceration and paroled, restitution shall be made a condition of parole.+>>

SECTION 46. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

<<+When a judge orders restitution, the judge shall:+>>

<<+(1) Order the restitution to be paid to a specific person or organization through the circuit clerk, who shall disburse the moneys as ordered by the court;+>>

<<+(2) Be responsible for overseeing the collection of restitution;+>>

<<+(3) Set the amount of restitution to be paid;+>>

<<+(4) Set the amount and frequency of each restitution payment or require the payment to be made in a lump sum;+>>

<<+(5) Monitor the payment of the restitution to assure that payment is being made;+>>

<<+(6) If restitution is not being paid as ordered, hold a hearing to determine why the restitution is not being paid;+>>

<<+(7) If the restitution is not being paid and no good reason exists therefor, institute sanctions against the defendant; and+>>

<<+(8) Not release the defendant from probation supervision until restitution has been paid in full and all other aspects of the probation order have been successfully completed.+>>

SECTION 47. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

<<+(1) When there is an identified victim of a defendant's crime to whom restitution has been ordered but not yet paid in full, or restitution has been ordered paid to a government agency and has not yet been paid in full, the Parole Board shall order the defendant to pay restitution as a condition of parole.+>>

<<+(2) When the Parole Board orders restitution, the board shall:+>>

<<+(a) Order the restitution to be paid to a specific person or organization through the Division of Probation and Parole, which shall disburse the moneys as ordered by the board;+>>

<<+(b) The Division of Probation and Parole shall be responsible for overseeing the collection of the restitution;+>>

<<+(c) Set the amount of restitution to be paid, if not already set;+>>

<<+(d) Set the amount and frequency of each restitution payment or require the payment to be made in a lump sum;+>>

<<+(e) Monitor the payment of the restitution to assure that payment is being made;+>>

<<+(f) If restitution is not being paid as ordered, institute parole violation proceedings to determine why the restitution is not being paid;+>>

<<+(g) If the restitution is not being paid and no good reason exists therefor, institute sanctions against the defendant; and+>>

<<+(h) Not release the defendant from parole supervision until restitution has been paid in full.+>>

<<+(3) The board, in addition to any other sanctions which may be imposed on the defendant, ask a court to hold a defendant who is not paying restitution in the manner or amount prescribed in contempt of court.+>>

<<+(4) Any statute relating to the length of parole supervision notwithstanding, the parole for a person owing restitution shall be until the restitution is paid in full, even if this would lengthen the period of supervision beyond the statutory limit of parole supervision or the statutory limit for serving out the sentence imposed.+>>

<<+(5) Payment of restitution in full prior to the end of the period of parole supervision shall not shorten the period of parole supervision.+>>

Section 48. KRS 533.020 is amended to read as follows:

<< KY ST § 533.020 >>

(1) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court shall place him on probation if he is in need of the supervision, guidance, assistance, or direction that the probation service can provide. Conditions of probation shall be imposed as provided in KRS 533.030, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of probation.

(2) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court may sentence him to probation with an alternative sentence if it is of the opinion that the defendant should conduct himself according to conditions determined by the court and that probationary supervision alone is insufficient. The court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the alternative sentence.

(3) When a person who has been convicted of an offense or who has entered a plea of guilty to an offense is not sentenced to imprisonment, the court may sentence him to conditional discharge if it is of the opinion that the defendant should conduct himself according to conditions determined by the court but that probationary supervision is inappropriate. Conditions of conditional discharge shall be imposed as provided in KRS 533.030, but the court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of conditional discharge.

(4) The period of probation, probation with an alternative sentence, or conditional discharge shall be fixed by the court and at any time may be extended or shortened by duly entered court order. Such period, with extensions thereof, shall not exceed five (5) years<<+, or the time necessary to complete restitution, whichever is longer,+>> upon conviction of a felony nor two (2) years<<+, or the time necessary to complete restitution, whichever is longer,+>> upon conviction of a misdemeanor. Upon completion of the probationary period, probation with an alternative sentence, or the period of conditional discharge, the defendant shall be deemed finally discharged, provided no warrant issued by the court is pending against him, and probation, probation with an alternative sentence, or conditional discharge has not been revoked.

(5) Notwithstanding the fact that a sentence to probation, probation with an alternative sentence, or conditional discharge can subsequently be modified or revoked, a judgment which includes such a sentence shall constitute a final judgment for purposes of appeal.

Section 49. KRS 533.030 is amended to read as follows:

<< KY ST § 533.030 >>

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

- (a) Avoid injurious or vicious habits;
- (b) Avoid persons or places of disreputable or harmful character;
- (c) Work faithfully at suitable employment as far as possible;
- (d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;
- (e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;
- (f) Support his dependents and meet other family responsibilities;
- (g) Pay the cost of the proceeding as set by the court;
- (h) Remain within a specified area;
- (i) Report to the probation officer as directed;
- (j) Permit the probation officer to visit him at his home or elsewhere;
- (k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment; and

(l) If the defendant's record indicates a controlled substance or alcohol problem, submit to periodic testing for use of controlled substances or alcohol and pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court, said fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. For good cause shown, the testing fee may be waived by the court.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Human Resources, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars (\$100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Restitution by payment may be ordered in a lump sum or in specified payments;

(b) Restitution by payment may be ordered paid through the circuit clerk who shall disburse the moneys as ordered by the court;

(c) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(d) Restitution by payment to governmental agencies shall be made through payments to and disbursement by the circuit clerk;

(e) The circuit clerk shall assess an additional fee of five percent to five and a half percent to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall enure to a trust and agency account which shall not lapse and which shall be used to hire additional deputy clerks and office personnel or increase deputy clerk and office personnel salaries, or combination thereof of the general fund of the State Treasury;

(f) When a defendant fails to make restitution ordered to be paid through the circuit clerk, the circuit clerk shall notify the court. The court shall hold a hearing to determine if the defendant is in contempt of the court or has violated the terms of his probation; and

(g) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) In addition to any other terms and conditions imposed under this section, the court may require the probationer, as a condition of his probation, to make one (1) payment to a crime stoppers organization in an amount not to exceed the amount of the reward paid by a crime stoppers organization, as defined by KRS 431.570, relative to the probationer.

(5) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(6) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed twelve (12) to six (6) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2), or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

SECTION 50. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The Attorney General shall develop and administer a program for the protection of crime victims and witnesses and their immediate families.

(2) Within the limits of the administrative regulations, guidelines, and appropriations for this purpose, the program shall provide funding to the State Police or to a sheriff's office or city or county police department agreeing to provide protection

to crime victims and witnesses and their families.+>>>

<<+(3) Any Commonwealth's attorney or county attorney may apply to the Attorney General for funding for protection of crime victims, witnesses, and their families.+>>>

<<+(4) No protective service shall be rendered to the same person for more than six (6) months.+>>>

<<+(5) Protective services funded by this program shall be limited to:+>>>

<<+(a) Physical protection of the person;+>>>

<<+(b) Physical security measures for the person's residence, vehicle, workplace, or combination thereof; or+>>>

<<+(c) Short-term relocation.+>>>

<<+(6) The Attorney General shall promulgate administrative regulations under KRS Chapter 73A for the operation of the program.+>>>

<<+(7) Nothing in this statute shall be construed to create a cause of action for money damages against the state, a county, a municipality, or any of their agencies, public officials, or employees.+>>>

<<+(8) No court shall order a law enforcement agency to protect crime victim witnesses or their immediate families.+>>>

<<+(9) No record that may lead to the identity of a person seeking or given protection under this section shall be an open record. This protection shall extend even to the question of whether such a record exists.+>>>

SECTION 51. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

<<+(1) A person may be found by the sentencing judge to have committed an offense specified below as a result of a hate crime if the person intentionally because of race, color, religion, sexual orientation, or national origin of another individual or group of individuals, violates a provision of any one (1) of the following:+>>>

<<+(a) KRS 508.010, 508.020, or 508.025;+>>>

<<+(b) KRS 508.050 or 508.060;+>>>

<<+(c) KRS 508.100 or 508.110;+>>>

<<+(d) KRS 509.020;+>>>

<<+(e) KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.100, or 510.110;+>>>

<<+(f) KRS 512.020, 512.050, or 512.060;+>>>

<<+(g) KRS 513.020, 513.030, or 513.040; or+>>>

<<+(h) KRS 525.020, 525.050, 525.060, 525.070, or 525.080.+>>>

<<+(2) At sentencing, the sentencing judge shall determine if, by a preponderance of the evidence presented at the trial a hate crime was a primary factor in the commission of the crime by the defendant. If so, the judge shall make a written finding of fact and enter that in the court record and in the judgment rendered against the defendant.+>>>

<<+(3) The finding that a hate crime was a primary factor in the commission of the crime by the defendant may be utilized by the sentencing judge as the sole factor for denial of probation, shock probation, conditional discharge, or other form of nonimposition of a sentence of incarceration.+>>>

<<+(4) The finding by the sentencing judge that a hate crime was a primary factor in the commission of the crime by the defendant may be utilized by the Parole Board in delaying or denying parole to a defendant.+>>>

SECTION 52. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

<<+(1) A person is guilty of institutional vandalism when he, because of race, color, religion, sexual orientation, or national origin of another individual or group of individuals, knowingly vandalizes, defaces, damages, or desecrates objects defined in KRS 525.110.+>>>

<<+(2) Institutional vandalism is a Class D felony.+>>>

SECTION 53. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

<<+A person who suffers personal injury as a result of conduct in violation of Section 51 of this Act is a victim of criminally injurious conduct as defined in KRS 346.020 and is eligible for awards pursuant to KRS Chapter 346.+>>>

SECTION 54. A NEW SECTION OF KRS CHAPTER 434 IS CREATED TO READ AS FOLLOWS:

<<+(1) A person is guilty of filing an illegal lien when he files a document or lien that he knows or should have known was forged, groundless, contained a material misstatement, or was a false claim. It shall be an affirmative defense that any material misstatement was not intentional.+>>>

<<+(2) Filing an illegal lien is a Class D felony for the first offense, a Class C felony for any second offense, and a Class B felony for any subsequent offense.+>>>

Section 55. KRS 15.420 is amended to read as follows:

<< KY ST § 15.420 >>

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Local unit of government" means any city or county,<<- or any->> combination of cities and counties, <<+state or

public university, or county sheriff's office+>> of the Commonwealth.

(2) "Police officer" means a full-time member of a lawfully organized police department of county<<+, urban-county+>> or city government<<+, a sheriff or full-time deputy sheriff, including any providing court security or appointed under KRS 70.030, or a state or public university police officer+>> who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky State Police, any <<+sheriff who earns the maximum constitutional salary for this office, any special+>><<-elected officer, sheriff,->> deputy sheriff <<+appointed under KRS 70.045+>>, <<+any+>> constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.

(3) "Council" means the Kentucky Law Enforcement Council.

Section 56. KRS 15.460 is amended to read as follows:

<< KY ST § 15.460 >>

(1) Beginning <<+on the effective date of this Act+>><<-July 1, 1982->>, an eligible local unit of government shall be entitled to receive annually a supplement of two thousand <<+seven+>><<-five->> hundred <<+fifty+>> dollars <<+(\$2,750)+>><<-(\$2,500)->> for each qualified police officer it employs, <<+and beginning on July 1, 1999, an annual supplement of three thousand dollars (\$3,000) for each qualified police officer it employs,+>> plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his qualifications brought to the local government. The supplement paid each police officer shall be in addition to his regular salary.

<<+(3) (a) Each qualified sheriff who receives the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527 shall not receive a supplement.+>>

<<+(b) Each qualified sheriff who does not receive the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527, excluding the expense allowance provided by KRS 70.170 shall upon final settlement with the fiscal court under KRS 134.310, receive that portion of the supplement that will not cause his compensation to exceed the maximum salary.+>>

<<+(c) Each qualified sheriff who seeks to participate in the fund shall forward a copy of the final settlement prepared under KRS 134.310 to the fund. The sheriff shall reimburse the fund if an audit of the final settlement reflects that the sheriff received all or a portion of the supplement in violation of this section. A sheriff who fails to provide a copy of the final settlement to the fund or to reimburse the fund after correction by audit, if required, shall not be qualified to participate in the fund for a period of two (2) years.+>>

<<+(d) Each qualified deputy sheriff shall receive the supplement from the sheriff if the sheriff administers his own budget or from the county treasurer if the sheriff pools his fees. The failure of a sheriff to comply with the provisions of this section shall not affect the qualification of his deputies to participate in the fund.+>>

Section 57. KRS 70.030 is amended to read as follows:

<< KY ST § 70.030 >>

(1) The sheriff may appoint his own deputies, and may revoke the appointment at his pleasure except where that revocation is prohibited by the provisions of KRS 70.260 to 70.273. In a county containing a city of the first class with a deputy sheriff merit board, the term of office of a deputy shall continue from sheriff to sheriff unless a deputy is removed according to the provisions of KRS 70.260 to 70.273. Before any deputy executes the duties of his office, he shall take the oath required to be taken by the sheriff.

(2) The sheriff may appoint nonsworn clerical, technical, professional, and support personnel to assist him in the performance of the duties of his office. All nonsworn personnel shall serve at the pleasure of the sheriff.

(3) No sheriff whose county has adopted a deputy sheriff merit board under KRS 70.260 shall appoint a deputy who is a member of the immediate family of the sheriff. The term "member of the immediate family" has the meaning given in KRS

70.260.

<<+(4) A sheriff's office may, upon the written request of the sheriff, participate in the Kentucky Law Enforcement Foundation Fund Program authorized by KRS 15.410 to 15.510, without the county establishing a deputy sheriff merit board. This subsection shall not prohibit the sheriff from requesting the fiscal court to establish a deputy sheriff merit board.+>>

SECTION 58. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

<<+As used in Sections 58 to 61 of this Act, the following definitions apply:+>>

<<+(1) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of methamphetamine, or possession with intent to manufacture, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, except that this term does not include activities:+>>

<<+(a) By a practitioner incident to administering or dispensing of a controlled substance in the course of his professional practice; or+>>

<<+(b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or incident to, research, teaching, or chemical analysis; or+>>

<<+(c) By a pharmacist incident to dispensing of a controlled substance in the course of his professional practice.+>>

<<+(2) "Methamphetamine" means any substance that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.+>>

<<+(3) "Traffic" means to distribute, dispense, sell, transfer, or possess with intent to distribute, dispense, or sell methamphetamine.+>>

SECTION 59. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

<<+(1) A person is guilty of manufacturing methamphetamine when he knowingly and unlawfully:+>>

<<+(a) Manufactures methamphetamine; or+>>

<<+(b) Possesses the chemicals or equipment for the manufacture of methamphetamine with the intent to manufacture methamphetamine.+>>

<<+(2) Manufacture of methamphetamine is a Class B felony for the first offense and a Class A felony for a second or subsequent offense.+>>

SECTION 60. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

<<+(1) A person is guilty of trafficking in methamphetamine when he knowingly and unlawfully sells, transfers, distributes, dispenses, or possesses with intent to distribute methamphetamine.+>>

<<+(2) Trafficking in methamphetamine is a Class C felony for the first offense and a Class B felony for a second or subsequent offense.+>>

SECTION 61. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

<<+Any person convicted of, pleading guilty to, or entering an Alford plea to any offense involving trafficking in a controlled substance or trafficking in marijuana shall, in addition to any other penalty authorized by law, be sentenced to:+>>

<<+(1) Pay the costs of disposal of the controlled substances;+>>

<<+(2) Pay the costs of disposal of all equipment, chemicals, materials, or other items used in or in furtherance of the trafficking offense;+>>

<<+(3) Pay the costs involved with environmental clean-up and remediation required for the real property and personal property used for or in furtherance of the trafficking offenses; and+>>

<<+(4) Pay the costs of protecting the public from dangers from chemicals, materials, and other items used for or in furtherance of the trafficking offense from the time of the arrest until the time that the clean-up or remediation of the real and personal property is concluded. The Commonwealth shall have a lien on all of the assets of the defendant until the amount specified by the court under this subsection is paid in full. The Commonwealth's attorney shall file the lien.+>>

Section 62. KRS 218A.010 is amended to read as follows:

<< KY ST § 218A.010 >>

As used in this chapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order; or

(b) The patient or research subject at the direction and in the presence of the practitioner.

(2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids.

- (3) “Controlled substance” means <<+methamphetamine, or+>> a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue.
- (4) (a) “Controlled substance analogue”, except as provided in subparagraph (b), means a substance:
1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
 2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
 3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
- (b) Such term does not include:
1. Any substance for which there is an approved new drug application;
 2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
 3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance.
- (5) “Counterfeit substance” means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.
- (6) “Dispense” means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.
- (7) “Distribute” means to deliver other than by administering or dispensing a controlled substance.
- (8) “Drug” means:
- (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
 - (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;
 - (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
 - (d) Substances intended for use as a component of any article specified in this subsection.
- It does not include devices or their components, parts, or accessories.
- (9) “Immediate precursor” means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.
- (10) “Isomer” means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term “isomer” means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term “isomer” means the optical or geometric isomer.
- (11) “Manufacture”<<+, except as provided in Section 58 of this Act,+>> means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:
- (a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or
 - (b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or
 - (c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.
- (12) “Marijuana” means all parts of the plant *Cannabis* sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances.
- (13) “Narcotic drug” means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
- (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
 - (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subsection (13)(a) of this section, but not including the isoquinoline alkaloids of opium;

- (c) Opium poppy and poppy straw;
- (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed.
- (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers.
- (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers.
- (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f).
- (14) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.
- (15) "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds.
- (16) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.
- (17) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- (18) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.
- (19) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.
- (20) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.
- (21) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter.
- (22) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.
- (23) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant *Cannabis*, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
 1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
 2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers;
 3. Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.
- (24) "Traffic" <<+, except as provided in Section 58 of this Act,+>> means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance.
- (25) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.
- (26) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

Section 63. KRS 218A.1412 is amended to read as follows:

<< KY ST § 218A.1412 >>

- (1) A person is guilty of trafficking in a controlled substance in the first degree when he knowingly and unlawfully traffics in: a controlled substance<<+, except a substance that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers or, that is+>> classified in Schedules I or II which is a narcotic drug; a controlled substance analogue; lysergic acid diethylamide; or phencyclidine.
- (2) Any person who violates the provisions of subsection (1) of this section shall:
 - (a) For the first offense be guilty of a Class C felony.
 - (b) For a second or subsequent offense be guilty of a Class B felony.

Section 64. KRS 218A.1413 is amended to read as follows:

<< KY ST § 218A.1413 >>

(1) A person is guilty of trafficking in a controlled substance in the second degree when:

(a) He knowingly and unlawfully traffics in a controlled substance classified in Schedules I and II which is not a narcotic drug; <<+or specified in KRS 218A.1412;+>> or a controlled substance classified in Schedule III; but not lysergic acid diethylamide, phencyclidine, or marijuana; or

(b) He knowingly and unlawfully prescribes, orders, distributes, supplies, or sells an anabolic steroid for:

1. Enhancing performance in an exercise, sport, or game; or

2. Hormonal manipulation intended to increase muscle mass, strength, or weight in the human species without a medical necessity.

(2) Any person who violates the provisions of subsection (1) of this section shall:

(a) For the first offense be guilty of a Class D felony.

(b) For a second or subsequent offense be guilty of a Class C felony.

Section 65. KRS 218A.1415 is amended to read as follows:

<< KY ST § 218A.1415 >>

(1) A person is guilty of possession of a controlled substance in the first degree when he knowingly and unlawfully possesses: a controlled substance <<+that contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers or, that is+>> classified in Schedules I or II which is a narcotic drug; a controlled substance analogue; lysergic acid diethylamide; or phencyclidine.

(2) Possession of a controlled substance in the first degree is:

(a) For a first offense a Class D felony.

(b) For a second or subsequent offense a Class C felony.

Section 66. KRS 218A.1416 is amended to read as follows:

<< KY ST § 218A.1416 >>

(1) A person is guilty of possession of a controlled substance in the second degree when he knowingly and unlawfully possesses: a controlled substance classified in Schedules I or II which is not a narcotic drug; <<+or specified in KRS 218A.1415;+>> or, a controlled substance classified in Schedule III; but not lysergic acid diethylamide, phencyclidine, or marijuana.

(2) Possession of a controlled substance in the second degree is:

(a) For a first offense a Class A misdemeanor.

(b) For a second or subsequent offense a Class D felony.

Section 67. KRS 218A.070 is amended to read as follows:

<< KY ST § 218A.070 >>

Unless otherwise rescheduled by regulation of the Cabinet for Human Resources, the controlled substances listed in this section are included in Schedule II:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a), but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation: Alphaprodine; Anileridine; Bezitramide; Dihydrocodeine; Diphenoxylate; Fentanyl; Isomethadone; Levomethorphan; Levorphanol; Metazocine; Methadone; Methadone-Intermediate; 4-cyano-2-dimethylamino-4; 4-diphenyl butane; Moramide-Intermediate; 2-methyl-3-morpholino-1; 1-diphenyl-propane-carboxylic acid; Pethidine; Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine,

Pethidine–Intermediate–B, ethyl–4–phenylpiperidine–4–carboxylate; Pethidine–Intermediate–C, 1–methyl–4–phenylpiperidine–4–carboxylic acid; Phenazocine; Piminodine; Racemethorphan; Racemorphan.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) <<–Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;–>>

<<–(c)–>> Phenmetrazine and its salts;

<<+(c)+>><<–(d)–>> Methylphenidate.

Section 68. KRS 218A.180 is amended to read as follows:

<< KY ST § 218A.180 >>

(1) Except when dispensed directly by a practitioner to an ultimate user, no <<+methamphetamine or+>> controlled substance in Schedule II may be dispensed without the written prescription of a practitioner. No controlled substance in Schedule II shall be refilled. All prescriptions for controlled substances classified in Schedule II shall be maintained in a separate prescription file.

(2) Except when dispensed directly by a practitioner to an ultimate user, a controlled substance included in Schedules III, IV, and V, which is a prescription drug, shall not be dispensed without a written or oral prescription by a practitioner. All oral prescriptions shall be dated and signed by the pharmacist. A pharmacist refilling any prescription shall record on the prescription the date, the quantity and his initials. The maintenance of prescription records under the federal controlled substances laws and regulations, containing substantially the same information as specified herein, shall constitute compliance with this subsection. The prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner and a new prescription, written or oral shall be required.

(3) All written prescriptions for controlled substances shall be dated as of and signed by the practitioner on the date when issued and shall bear the full name and address of the patient and the name, address and registration number of the practitioner. All prescriptions for controlled substances shall be retained for a period of two (2) years.

(4) The pharmacist filling a written or oral prescription for a controlled substance shall affix to the package a label showing the date of filling, the pharmacy name and address, the serial number of the prescription, the name of the patient, the name of the prescribing practitioner and directions for use and cautionary statements, if any, contained in such prescription or required by law.

Section 69. KRS 189.990 is amended to read as follows:

<< KY ST § 189.990 >>

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars (\$20) nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents (2¢) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3¢) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5¢) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7¢) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9¢) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars (\$60) nor more than five hundred dollars (\$500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars (\$15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both. For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars (\$15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars (\$20) nor more than fifty dollars (\$50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars (\$20) nor more than twenty-five dollars (\$25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars (\$100), and upon subsequent convictions, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be <<+guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor+>><<-punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less

than thirty five dollars (\$35) nor more than five hundred dollars (\$500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars (\$60) nor more than one thousand dollars (\$1,000), or by both such fine and imprisonment-->>.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars (\$50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars (\$25).

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 70. KRS 532.060 is amended to read as follows:

<< KY ST § 532.060 >>

(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.

Section 71. KRS 532.030 is amended to read as follows:

<< KY ST § 532.030 >>

(1) When a person is convicted of a capital offense he shall have his punishment fixed at death, <<+or at a term of imprisonment for life without benefit of probation or parole,+>> or at a term of imprisonment for life without benefit of probation or parole until he has served a minimum of twenty-five (25) years of his sentence, or to a sentence of life, or to a term of not less than twenty (20) years <<+nor more than fifty (50) years+>>.

(2) When a person is convicted of a Class A felony he shall have his punishment fixed at imprisonment in accordance with

KRS 532.060.

(3) When a person is convicted of an offense other than a capital offense or Class A felony, he shall have his punishment fixed at:

(a) A term of imprisonment authorized by this chapter; or

(b) A fine authorized by KRS Chapter 534; or

(c) Both imprisonment and a fine unless precluded by the provisions of KRS Chapter 534.

(4) In all cases in which the death penalty may be authorized the judge shall instruct the jury in accordance with subsection (1) of this section. The instructions shall state, subject to the aggravating and mitigating limitations and requirements of KRS 532.025, that the jury may recommend upon a conviction for a capital offense a sentence of death, <<+or at a term of imprisonment for life without benefit of probation or parole,+>> or a term of imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, or a sentence of life, or to a term of not less than twenty (20) years <<+nor more than fifty (50) years+>>.

Section 72. KRS 532.025 is amended to read as follows:

<< KY ST § 532.025 >>

(1) (a) Upon conviction of a defendant in cases where the death penalty may be imposed, a hearing shall be conducted. In such hearing, the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas; provided, however, that only such evidence in aggravation as the state has made known to the defendant prior to his trial shall be admissible. Subject to the Kentucky Rules of Evidence, juvenile court records of adjudications of guilt of a child for an offense that would be a felony if committed by an adult shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial and may be used during the sentencing phase of a criminal trial; however, the fact that a juvenile has been adjudicated delinquent of an offense that would be a felony if the child had been an adult shall not be used in finding the child to be a persistent felony offender based upon that adjudication. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or IV-B of the Federal Social Security Act is also prohibited. The judge shall also hear argument by the defendant or his counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the death penalty may be imposed, the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon the conclusion of the evidence and arguments, the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment;

(b) In all cases in which the death penalty may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. Such hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in paragraph (a) of this subsection, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and to recommend a sentence for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.

(2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:

(a) Aggravating circumstances:

1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions;

2. The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, rape in the first degree, or sodomy in the first degree;

3. The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one (1) person in a public place by means of a destructive device, weapon, or other device which would normally be hazardous to the lives of more than one (1) person;

4. The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit;
5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employee engaged at the time of the act in the performance of his duties;
6. The offender's act or acts of killing were intentional and resulted in multiple deaths;<<- and->>
7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties; <<+and+>>
- <<+8. The offender murdered the victim when an emergency protective order or a domestic violence order was in effect, or when any other order designed to protect the victim from the offender, such as an order issued as a condition of a bond, conditional release, probation, parole, or pretrial diversion, was in effect.+>>

(b) Mitigating circumstances:

1. The defendant has no significant history of prior criminal activity;
2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime;
3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act;
4. The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime;
5. The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor;
6. The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime;
7. At the time of the capital offense, the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental illness or retardation or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime; and
8. The youth of the defendant at the time of the crime.

(3) The instructions as determined by the trial judge to be warranted by the evidence or as required by KRS 532.030(4) shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, <<+or imprisonment for life without benefit of probation or parole,+>> or imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In nonjury cases, the judge shall make such designation. In all cases unless at least one (1) of the statutory aggravating circumstances enumerated in subsection (2) of this section is so found, the death penalty<<+, or imprisonment for life without benefit of probation or parole,+>> or the sentence to imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall not be imposed.

Section 73. KRS 533.010 is amended to read as follows:

<< KY ST § 533.010 >>

- (1) Any person who has been convicted of a crime and who has not been sentenced to death may be sentenced to probation, probation with an alternative sentencing plan, or conditional discharge as provided in this chapter.
- (2) Before imposition of a sentence of imprisonment, the court shall consider<<- the possibility of->> probation, probation with an alternative sentencing plan, or conditional discharge. <<+Unless the defendant is a violent felon as defined in KRS 439.3401 or a statute prohibits probation, shock probation, or conditional discharge,+>> after due consideration of the nature and circumstances of the crime and the history, character, and condition of the defendant, probation<<-, probation with an alternative sentencing plan,->> or conditional discharge <<+shall+>><<-should->> be granted, unless the court is of the opinion that imprisonment is necessary for protection of the public because:
 - (a) There is substantial risk that during a period of probation<<-, probation with an alternative sentencing plan,->> or conditional discharge the defendant will commit another crime;
 - (b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to a correctional institution; or
 - (c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.
- (3) <<+In the event the court determines that probation is not appropriate after due consideration of the nature and

circumstances of the crime, and the history, character, and condition of the defendant, probation with an alternative sentencing plan shall be granted unless the court is of the opinion that imprisonment is necessary for the protection of the public because:+>>

<<+(a) There is a likelihood that during a period of probation with an alternative sentencing plan or conditional discharge the defendant will commit a Class D or Class C felony or a substantial risk that the defendant will commit a Class B or Class A felony;+>>

<<+(b) The defendant is in need of correctional treatment that can be provided most effectively by commitment to a correctional institution; or+>>

<<+(c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.+>>

<<+(4) The court shall not determine that there is a likelihood that the defendant will commit a Class C or Class D felony based upon the fact that:+>>

<<+(a) The defendant has never been convicted of, pled guilty to, or entered an Alford plea to a felony offense;+>>

<<+(b) If convicted of, having pled guilty to, or entered an Alford plea to a felony offense, the defendant successfully completed probation more than ten (10) years immediately prior to the date of the commission of the felony for which the defendant is now being sentenced and has had no intervening convictions, pleas of guilty, or Alford pleas to any criminal offense during that period; or+>>

<<+(c) The defendant has been released from incarceration for the commission of a felony offense more than ten (10) years immediately prior to the date of the commission of the felony for which the defendant is now being sentenced and has had no intervening convictions, pleas of guilty, or Alford pleas to any criminal offense during that period.+>>

<<+(5) In making a determination under subsection (4) of this section, the court may determine that the greater weight of the evidence indicates that there is a likelihood that the defendant will commit a Class C or Class D felony.+>>

<<+(6) Upon initial sentencing of a defendant or upon modification or revocation of probation, when the court deems it in the best interest of the public and the defendant, the court may order probation with the defendant to serve one (1) of the following alternative sentences:+>>

<<+(a) To a halfway house for no more than twelve (12) months;+>>

<<+(b) To home incarceration with or without work release for no more than twelve (12) months;+>>

<<+(c) To jail for a period not to exceed twelve (12) months with or without work release, community service and other programs as required by the court;+>>

<<+(d) To a residential treatment program for the abuse of alcohol or controlled substances; or+>>

<<+(e) To any other specified counseling program, rehabilitation or treatment program, or facility.+>>

<<+(7) If during the term of the alternative sentence the defendant fails to adhere to and complete the conditions of the alternative sentence, the court may modify the terms of the alternative sentence or may modify or revoke probation and alternative sentence, and commit the defendant to an institution.+>>

<<+(8) In addition to those conditions that the court may impose, the conditions of alternative sentence shall include the following and, if the court determines that the defendant cannot comply with them, then they shall not be made available:+>>

<<+(a) A defendant sentenced to a halfway house shall:+>>

<<+1. Be working or pursuing his or her education, or be enrolled in a full-time treatment program;+>>

<<+2. Pay restitution during the term of probation; and+>>

<<+3. Have no contact with the victim of the defendant's crime;+>>

<<+(b) A defendant sentenced to home incarceration shall:+>>

<<+1. Be employed by another person or self-employed at the time of sentencing to home incarceration and continue the employment throughout the period of home incarceration, unless the court determines that there is a compelling reason to allow home incarceration while the defendant is unemployed;+>>

<<+2. Pay restitution during the term of home incarceration;+>>

<<+3. Enter a treatment program, if appropriate;+>>

<<+4. Pay all or some portion of the cost of home incarceration as determined by the court;+>>

<<+5. Comply with other conditions as specified; and+>>

<<+6. Have no contact with the victim of the defendant's crime;+>>

<<+(c) A defendant sentenced to jail with community service shall:+>>

<<+1. Pay restitution during all or some part of the defendant's term of probation; and+>>

<<+2. Have no contact with the victim of the defendant's crime; or+>>

<<+(d) A defendant sentenced to a residential treatment program for drug and alcohol abuse shall:+>>

<<+1. Undergo mandatory drug screening during term of probation;+>>

<<+2. Be subject to active, supervised probation for a term of five (5) years;+>>

<<+3. Undergo aftercare as required by the treatment program;+>>

<<+4. Pay restitution during the term of probation; and+>>

<<+5. Have no contact with the victim of the defendant's crime.+>>

<<+(9)+>> When the court deems it in the best interest of the defendant and the public, the court may order the person to work at community service related projects under the terms and conditions specified in KRS 533.070. Work at community service related projects shall be considered as a form of conditional discharge.

<<+(10) Probation with alternative sentence shall not be available as set out in KRS 532.045 and 533.060, except as provided in KRS 533.030(6).+>>

<<+(11) The court may utilize a community corrections program authorized or funded under KRS Chapter 196 to provide services to any person released under this section.+>>

<<+(12) When the court deems it in the best interest of the defendant and the public, the court may order the defendant to placement for probation monitoring by a private agency. The private agency shall report to the court on the defendant's compliance with his terms of probation or conditional discharge. The defendant shall be responsible for any reasonable charges which the private agency charges.+>>

<<+(13) The jailer in each county incarcerating Class D felons may deny work release privileges to any defendant for violating standards of discipline or other jail regulations. The jailer shall report the action taken and the details of the violation on which the action was based to the court of jurisdiction within five (5) days of the violation.+>>

<<+(14) The Department of Corrections shall, by administrative regulation, develop written criteria for work release privileges granted under this section.+>>

<<+(15) The court shall enter into the record written findings of fact and conclusions of law when considering implementation of any sentence under this section.+>>

Section 74. KRS 532.020 is amended to read as follows:

<< KY ST § 532.020 >>

(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<<- penitentiary or reformatory->> 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+>><<-or->> 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.

Section 75. KRS 532.050 is amended to read as follows:

<< KY ST § 532.050 >>

(1) No court shall impose sentence for conviction of a felony, other than a capital offense, without first ordering a presentence investigation after conviction and giving due consideration to a written report of the investigation. The presentence investigation report shall not be waived; however, the completion of the presentence investigation report may be delayed until after sentencing upon the written request of the defendant if the defendant is in custody and is ineligible for probation or conditional discharge.

(2) The report shall be prepared and presented by a probation officer and shall include an analysis of the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the court directs to be included.

(3) Before imposing sentence for a felony conviction, the court may order the defendant to submit to psychiatric observation and examination for a period not exceeding sixty (60) days. The defendant may be remanded for this purpose to any available clinic or mental hospital or the court may appoint a qualified psychiatrist to make the examination.

(4) If the defendant has been convicted of any felony offense under KRS Chapter 510, 530.020, 530.064, 531.310, any sexual offense under KRS 506.010 or 506.030, or any other felony offense committed in conjunction with a misdemeanor under

KRS Chapter 510, the court shall, prior to determining the sentence, order an evaluation of the defendant to be conducted by the sexual offender treatment program operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services. The evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment, and shall be considered by the court in determining the appropriate sentence. <<+A copy of the evaluation shall be furnished to the Commonwealth and to the defendant.+>> If the defendant is eligible and the court suspends the sentence and places the defendant on probation or conditional discharge, the provisions of KRS 532.045(3) to (8) shall apply. All communications relative to the evaluation and treatment of the sex offender shall fall under the provisions of KRS 197.440 and shall not be made a part of the court record subject to review in appellate proceedings. The defendant shall pay for any evaluation or treatment required pursuant to this section up to the defendant's ability to pay but no more than the actual cost of the evaluation or treatment.

(5) <<+The presentence investigation report shall identify the counseling treatment, educational, and rehabilitation needs of the defendant and identify community-based and correctional-institutional-based programs and resources available to meet those needs or shall identify the lack of programs and resources to meet those needs.+>>

<<+(6)+>> Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of any presentence investigation or psychiatric examinations and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel a copy of the presentence investigation report. It shall not be necessary to disclose the sources of confidential information.

Section 76. KRS 532.080 is amended to read as follows:

<< KY ST § 532.080 >>

(1) When a defendant is found to be a persistent felony offender, the jury, in lieu of the sentence of imprisonment assessed under KRS 532.060 for the crime of which such person presently stands convicted, shall fix a sentence of imprisonment as authorized by subsection (5) or (6) of this section. When a defendant is charged with being a persistent felony offender, the determination of whether or not he is such an offender and the punishment to be imposed pursuant to subsection (5) or (6) of this section shall be determined in a separate proceeding from that proceeding which resulted in his last conviction. Such proceeding shall be conducted before the court sitting with the jury that found the defendant guilty of his most recent offense unless the court for good cause discharges that jury and impanels a new jury for that purpose.

(2) A persistent felony offender in the second degree is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of one (1) previous felony. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on the previous felony conviction within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

2. Was on probation, parole, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation, parole, conditional discharge, conditional release, or any other form of legal release on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.

(3) A persistent felony offender in the first degree is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of two (2) or more felonies. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on any of the previous felony convictions within five (5) years prior to the date of the commission of the felony for which he now stands convicted; or

2. Was on probation, parole, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal

release from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation, parole, conditional discharge, conditional release, or any other form of legal release on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.

(4) For the purpose of determining whether a person has two (2) or more previous felony convictions, two (2) or more convictions of crime for which that person served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one (1) conviction, unless one (1) of the convictions was for an offense committed while that person was imprisoned.

(5) A person who is found to be a persistent felony offender in the second degree shall be sentenced to an indeterminate term of imprisonment pursuant to the sentencing provisions of KRS 532.060(2) for the next highest degree than the offense for which convicted. A person who is found to be a persistent felony offender in the second degree shall not be eligible for probation, shock probation, or conditional discharge<<+, unless all offenses for which the person stands convicted are Class D felony offenses which do not involve a violent act against a person, in which case probation, shock probation, or conditional discharge may be granted. A violent offender who is found to be a persistent felony offender in the second degree shall not be eligible for parole except as provided in KRS 439.3401+>>.

(6) A person who is found to be a persistent felony offender in the first degree shall be sentenced to imprisonment as follows:

(a) If the offense for which he presently stands convicted is a Class A or Class B felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than twenty (20) years nor more than <<+fifty (50) years, or+>> life imprisonment; or

(b) If the offense for which he presently stands convicted is a Class C or Class D felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than ten (10) years nor more than twenty (20) years.

(7) <<-If the offense the person presently stands convicted of is a Class A, B, or C felony;->>A person who is found to be a persistent felony offender in the first degree shall not be eligible for probation, shock probation, or conditional discharge, <<+unless all offenses for which the person stands convicted are Class D felony offenses which do not involve a violent act against a person, in which case probation, shock probation, or conditional discharge may be granted. If the offense the person presently stands convicted of is a Class A, B, or C felony, the person shall not be eligible+>><<- nor->> for parole until <<+the persons has+>><<-having->> served a minimum term of incarceration of not less than ten (10) years. <<+A violent offender who is found to be a persistent felony offender in the first degree shall not be eligible for parole except as provided in KRS 439.3401.+>>

(8) <<+No conviction, plea of guilty, or Alford plea to a violation of KRS 218A.500 shall bring a defendant within the purview of or be used as a conviction eligible for making a person a persistent felony offender under this section.+>>

<<+(9)+>> The provisions of this section amended by 1994 Ky. Acts ch. 396, sec. 11, shall be retroactive.

Section 77. KRS 439.3401 is amended to read as follows:

<< KY ST § 439.3401 >>

(1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim <<+or serious physical injury to a victim+>>, or rape in the first degree or sodomy in the first degree of the victim<<-, or serious physical injury to a victim->>. <<+The court shall designate in its judgment if the victim suffered death or serious physical injury.+>>

(2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole <<+or imprisonment for life without benefit of probation or parole+>>), or a Class A felony and receives a life sentence, or to death and his sentence is commuted to a life sentence shall not be released on parole until he has served at least <<+twenty (20)+>><<-twelve (12)->> years in the penitentiary. <<+Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.+>>

(3) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony who is a violent offender shall not be released on parole until he has served at least <<+ eighty-five percent (85%)+>><<-fifty percent (50%)->> of the sentence imposed.

(4) <<+A violent offender may not be awarded any credit on his sentence authorized by KRS 197.045(1), except the educational credit. A violent offender may, at the discretion of the commissioner, receive credit on his sentence authorized by KRS 197.045(3). In no event shall a violent offender be given credit on his sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.+>>

<<+(5)+>> This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.

<<+(6)+>><<-(5)->> This section shall apply only to those persons who commit offenses after July 15, <<+1998+>><<-1986->>.

<<+(7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.+>>

Section 78. KRS 439.3405 is amended to read as follows:

<< KY ST § 439.3405 >>

(1) Notwithstanding any statute eliminating <<+parole+>> or establishing minimum time for parole eligibility for a certain class or status of offender, including KRS 439.340(10), 439.3401, 532.080(7), and 533.060, the board, with the written consent of a majority of the full board, may review the case of any prisoner and release that prisoner on parole despite any elimination of or minimum time for parole eligibility, when the prisoner has a documented terminal medical condition likely to result in death within one (1) year <<+ or severe chronic lung disease, end-stage heart disease, severe neuro-muscular disease such as multiple sclerosis; or has severely limited mobility due to paralysis as a result of stroke or trauma; or is dependent on external life support systems+>> and would not pose a threat to society if paroled.

(2) Medical information considered under this section shall be limited to the medical findings supplied by Department of Corrections medical staff. The medical staff shall provide in writing the prisoner's diagnosis and prognosis in support of the conclusion that the prisoner suffers from a terminal medical condition likely to result in death within one (1) year <<+or because of the conditions set forth in subsection (1) of this section he is totally dependent on others for the activities of daily living+>>.

(3) The medical information prepared by the Department of Corrections medical staff under this section shall be forwarded to the warden of the institution who shall submit that information and a recommendation for or against parole review under this section to the commissioner of the Department of Corrections or his designee. With the approval of the commissioner of the Department of Corrections, a request for parole review under this section, along with the medical information and warden's recommendation, shall be submitted to the board.

(4) Medical information presented under this section shall be considered along with other information relevant to a decision regarding the granting of parole and shall not constitute the only reason for granting parole.

Section 79. KRS 15.315 is amended to read as follows:

<< KY ST § 15.315 >>

The Kentucky Law Enforcement Council is hereby established as an independent administrative body of state government to be made up as follows:

(1) The Attorney General of Kentucky, the commissioner of the Department of State Police, <<+directors of the Southern Police Institute+>><<-the dean of the School of Police Administration->> of the University of Louisville, the dean of the <<+College+>><<-School->> of Law Enforcement of Eastern Kentucky University, the president of the Kentucky Peace Officers Association, the president of the Kentucky Association of Chiefs of Police, and the Kentucky president of the Fraternal Order of Police, shall be ex officio members of the council, as full voting members of the council by reason of their office. The Kentucky special agent in charge of the Federal Bureau of Investigation shall serve on the council in an advisory capacity only without voting privileges. Each ex officio member may designate in writing a person to represent him and vote on his behalf.

(2) Nine (9) members shall be appointed by the Governor for terms of four (4) years from the following classifications: a city manager or mayor, one (1) Kentucky sheriff, a member of the Kentucky State Bar Association, five (5) chiefs of police, and a citizen of Kentucky not coming within the foregoing classifications. No person shall serve beyond the time he holds the office or employment by reason of which he was initially eligible for appointment. Vacancies shall be filled in the same manner as the original appointment and the successor shall be appointed for the unexpired term. Any member may be appointed for additional terms.

(3) No member may serve on the council with the dual membership as the representative of more than one (1) of the aforementioned groups or the holder of more than one (1) of the aforementioned positions. In the event that an existing member of the council assumes a position entitling him to serve on the council in another capacity the Governor shall appoint an additional member from the group concerned to prevent dual membership.

(4) Membership on the council does not constitute a public office and no member shall be disqualified from holding public office by reason of his membership.

SECTION 80. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

<<+(1) When a patient who has been involuntarily committed to a psychiatric facility or forensic psychiatric facility and who has been charged with or convicted of a violent crime as defined in KRS 439.3401 is discharged or transferred from the facility, the administrator shall notify the law enforcement agency in the county to which the person is to be released, the prosecutor in the county where the violent crime was committed, and the Department of Corrections.+>>

<<+(2) If a patient who has been involuntarily committed to a psychiatric facility or forensic psychiatric facility and who has been charged with or convicted of a violent crime as defined in KRS 439.3401 escapes from the facility, the administrator shall notify the law enforcement agency in the county in which the facility is located, the prosecutor in the county where the violent crime was committed, and the Department of Corrections.+>>

<<+(3) The administrator of a psychiatric facility or forensic psychiatric facility, or the administrator's designee, who acts in good faith in making the notifications required in this section or is unable to provide the release information required, is immune from any civil liability.+>>

<<+(4) The Department of Corrections shall notify, or contract with a private entity to notify, victims of crime who have made a notification request of the discharge or escape of a patient from a psychiatric facility or forensic psychiatric facility.+>>

<<+(5) The Department of Corrections and the Cabinet for Human Resources shall each promulgate administrative regulations under KRS Chapter 13A to carry out the duties set forth in this statute.+>>

Section 81. KRS 532.210 is amended to read as follows:

<< KY ST § 532.210 >>

(1) Any misdemeanor <<+or a felon who has not been convicted of, pled guilty to, or entered an Alford plea to a violent felony offense+>> may petition the sentencing court for an order directing that all or a portion of a sentence of imprisonment in the county jail be served under conditions of home incarceration. Such petitions may be considered and ruled upon by the sentencing court prior to and throughout the term of the <<+defendant's+>><<-misdemeanant's->> sentence.

(2) The sentencing judge shall study the record of all persons petitioning for home incarceration and, in his discretion, may:

(a) Cause additional background or character information to be collected or reduced to writing by the county jailer or misdemeanor supervision department;

(b) Conduct hearings on the desirability of granting home incarceration;

(c) Impose on the home incarcerated such conditions as are fit, including restitution;

(d) Order that all or a portion of a sentence of imprisonment in the county jail be served under conditions of home incarceration at whatever time or intervals, consecutive or nonconsecutive, as the court shall determine. The time actually spent in home incarceration pursuant to this provision shall not exceed six (6) months or the maximum term of imprisonment assessed pursuant to this chapter whichever is the shorter;

(e) Issue warrants for persons when there is reason to believe they have violated the conditions of home incarceration, conduct hearings on such matters, and order reimprisonment in the county jail upon proof of violation; and

(f) Grant final discharge from incarceration.

(3) All home incarcerated shall execute a written agreement with the court setting forth all of the conditions of home incarceration. The order of home incarceration shall incorporate that agreement and order compliance with its terms. The order and agreement shall be transmitted to the supervising authority and to the appropriate jail official.

(4) Time spent in home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to this chapter.

(5) Home incarcerated shall be under the supervision of the county jailer except in counties establishing misdemeanor supervision departments, wherein they shall be under the supervision of such departments. Home incarcerated shall be subject to the decisions of such authorities during the period of supervision. Fees for supervision or equipment usage shall be paid directly to the supervising authority.

SECTION 82. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO READ AS FOLLOWS:

<<+(1) No person, who at the time of the commission of the offense was acting or collaborating to engage on a continuing basis in furtherance of criminal gang activity, shall commit any of the following offenses:+>>

<<+(a) Any felony offense named in KRS 439.3401;+>>
 <<+(b) Any offense under Section 83 of this Act; or+>>
 <<+(c) Any illegal trafficking in destructive devices or booby traps as defined in KRS Chapter 237.+>>
 <<+(2) Other provisions of law notwithstanding, any person who is convicted of any of the offenses enumerated in subsection 1(a) to (c) of this section who was acting in furtherance of criminal gang activity at the time of the commission of the offense shall be penalized an additional one (1), two (2), or three (3) years, at the discretion of the judge.+>>
 <<+(3) As used in this section, “criminal gang activity” means a group of five (5) or more persons having four (4) or more of the following:+>>
 <<+(a) Self-proclamation;+>>
 <<+(b) A common name;+>>
 <<+(c) Common identifying hand or body signs or signals;+>>
 <<+(d) A common identifying mode, style, or color of dress;+>>
 <<+(e) An identifying tattoo or body marking;+>>
 <<+(f) An organizational structure, overt or covert;+>>
 <<+(g) A de facto claim of territory or jurisdiction; or+>>
 <<+(h) An initiation ritual.+>>
 <<+(4) As used in this section, “continuing basis” means the commission, attempted commission, solicitation, or conviction of at least two (2) crimes, one (1) of which occurred after the effective date of this chapter and the last of which occurred within two (2) years, excluding any period of imprisonment, after the commission of a prior criminal act.+>>
SECTION 83. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO READ AS FOLLOWS:
 <<+(1) A person is guilty of criminal gang recruitment when he solicits or entices another person to join a gang, or intimidates or threatens another person because the other person:+>>
 <<+(a) Refuses to join a criminal gang;+>>
 <<+(b) Has withdrawn or is attempting to withdraw from a criminal gang; or+>>
 <<+(c) Refuses to submit to a demand made by a criminal gang.+>>
 <<+(2) Criminal gang recruitment is a Class A misdemeanor for the first offense, and a Class D felony for a second or subsequent offense.+>>
SECTION 84. A NEW SECTION OF KRS CHAPTER 506 IS CREATED TO READ AS FOLLOWS:
 <<+(1) It is no defense to prosecution under Section 82 or 83 of this Act that:+>>
 <<+(a) One (1) or more members of the gang are not criminally responsible for the offense;+>>
 <<+(b) One (1) or more members of the gang have been acquitted, have not been prosecuted or convicted, have been convicted of a different offense, or are under prosecution;+>>
 <<+(c) A person has been charged with, acquitted, or convicted of any offense under Section 82 or 83 of this Act;+>>
 <<+(d) The participants may not know each other’s identity;+>>
 <<+(e) The membership in the criminal gang may change from time to time; or+>>
 <<+(f) The participants may stand in a wholesaler-retailer or other arm’s length arrangement in the conduct of illicit distribution or other operations.+>>
 <<+(2) Once the initial combination of five (5) or more persons is formed, the number or identity of persons remaining in the gang is immaterial as long as four (4) or more persons in the gang, excluding the defendant, are involved in a continuing course of conduct constituting a violation of Section 82 or 83 of this Act.+>>
Section 85. KRS 635.020 is amended to read as follows:

<< KY ST § 635.020 >>

- (1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed a felony other than those described in subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially proceed in accordance with the provisions of this chapter.
- (2) If a child charged with a capital offense, Class A felony, or Class B felony, had attained age fourteen (14) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth’s attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.
- (3) If a child charged with a Class C or Class D felony has on one (1) prior separate occasion been adjudicated a public offender for a felony offense and had attained the age of sixteen (16) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth’s attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the

provisions of KRS 640.010.

(4) Any other provision of KRS Chapters <<+600+>><<-610->> to 645 to the contrary notwithstanding, if a child charged with a felony in which a firearm was used in the commission of the offense or had attained the age of fourteen (14) years at the time of the commission of the alleged offense, he shall be transferred to the Circuit Court for trial as an adult if, following a preliminary hearing, the District Court finds probable cause to believe that the child committed a felony, that a firearm was used in the commission of that felony, and that the child was fourteen (14) years of age or older at the time of the commission of the alleged felony.

If convicted in the Circuit Court<<+,+>> he shall be subject to the same penalties as an adult offender, except that until he reaches the age of eighteen (18) years, he shall be confined in a secure detention facility for juveniles or for youthful offenders, unless released pursuant to expiration of sentence or parole, and at age eighteen (18) he shall be transferred to an adult facility operated by the Department of Corrections to serve any time remaining on his sentence.

(5) If a child previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with a felony allegedly committed prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(6) A child who is charged as is provided in subsection (2) of this section and is also charged with a Class C or D felony, a misdemeanor, or a violation arising from the same course of conduct shall have all charges included in the same proceedings; and the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(7) If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(8) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, whether the charges are adjudicated under this chapter or under KRS Chapter 640 and transferred to Circuit Court.

SECTION 86. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

<<+(1) A pretrial diversion program shall be operated in each judicial circuit. The chief judge of each judicial circuit, in cooperation with the Commonwealth's Attorney, shall submit a plan for the pretrial diversion program to the Supreme Court for approval on or before December 1, 1999. The pretrial diversion program shall contain the following elements:+>>

<<+(a) The program may be utilized for a person charged with a Class D felony offense who has not, within ten (10) years immediately preceding the commission of this offense, been convicted of a felony under the laws of this state, another state, or of the United States, or has not been on probation or parole or who has not been released from the service of any felony sentence within ten (10) years immediately preceding the commission of the offense.+>>

<<+(b) The program shall not be utilized for persons charged with offenses for which probation, parole, or conditional discharge is prohibited under KRS 532.045.+>>

<<+(c) No person shall be eligible for pretrial diversion more than once in a five (5) year period.+>>

<<+(d) Any person charged with an offense not specified as precluding a person from pretrial diversion under paragraph (b) of this subsection may apply in writing to the trial court and the Commonwealth's attorney for entry into a pretrial diversion program.+>>

<<+(e) Any person shall be required to enter an Alford plea or a plea of guilty as a condition of pretrial diversion.+>>

<<+(2) The Commonwealth's attorney shall make a recommendation upon each application for pretrial diversion to the Circuit Judge in the court in which the case would be tried. The court may approve or disapprove the diversion.+>>

<<+(3) The court shall assess a diversion supervision fee of a sufficient amount to defray all or part of the cost of participating in the diversion program. Unless the fee is waived by the court in the case of indigency, the fee shall be assessed against each person placed in the diversion program. The fee may be based upon ability to pay.+>>

SECTION 87. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

<<+When considering an application for pretrial diversion the attorney for the Commonwealth shall:+>>

<<+(1) Have a criminal record check made to ascertain if the person is eligible for pretrial diversion.+>>

<<+(2) Interview the victim of the crime, if there is an identified victim, and, when the victim of the crime is deceased or the attorney for the Commonwealth deems it necessary, interview a member of the family of the victim of the crime. The attorney for the Commonwealth shall explain to the victim the diversion program, the proposed diversion conditions, and any other matters that the attorney for the Commonwealth deems to be appropriate. The results of the interview and recommendations of the victim may be presented to the court when it is considering the application for pretrial diversion. If the application for diversion is approved by the court, the approval shall be in open court and may be attended by the victim

and the victim's family. The attorney for the Commonwealth shall attempt to notify them of this fact and the time, date, and place of the hearing.+>>

<<+(3) Conduct any other investigation that the attorney for the Commonwealth determines may be necessary with regard to the defendant and the circumstances of the crime so as to enable him or her to set proper conditions of pretrial diversion, or to make a decision whether to recommend pretrial diversion.+>>

SECTION 88. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

<<+(1) The provisions of KRS 533.020 relating to the period of probation shall, in so far as possible, be applicable to the period of pretrial diversion except that supervision of the participants in the programs shall be done by the Division of Probation and Parole.+>>

<<+(2) The provisions of KRS 533.030 relating to conditions of probation and restitution shall, in so far as possible, be applicable to pretrial diversion. Restitution shall be ordered in all cases where a victim has suffered monetary damage as a result of the alleged crime. Restitution to the state, or the victim, or both, may be ordered in any pretrial diversion program.+>>

SECTION 89. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

<<+(1) If the defendant fails to complete the provisions of the pretrial diversion agreement within the time specified, or is not making satisfactory progress toward the completion of the provisions of the agreement, the Division of Probation and Parole, the victim, or a peace officer may inform the attorney for the Commonwealth of the alleged violation or noncompliance, and the attorney for the Commonwealth, may apply to the court for a hearing to determine whether or not the pretrial diversion agreement should be voided and the court should proceed on the defendant's plea of guilty in accordance with the law.+>>

<<+(2) In making a determination as to whether or not a pretrial diversion agreement should be voided, the court shall use the same criteria as for the revocation of probation, and the defendant shall have the same rights as he or she would if probation revocation was sought.+>>

<<+(3) Making application for a pretrial diversion agreement tolls any statute of limitations relative to the criminal offenses for which the application is made for the period until the application is granted or denied. Approval of the application for pretrial diversion by the court tolls any statute of limitations relative to criminal offenses diverted for the period of the diversion agreement.+>>

<<+(4) If the court voids the pretrial diversion agreement, the court shall notify the applicable prosecutor, in writing, that the pretrial diversion agreement has been voided and the reasons for the action. The prosecutor shall decide whether or not to proceed on the plea of guilty in accordance with the law.+>>

SECTION 90. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

<<+(1) If the defendant successfully completes the provisions of the pretrial diversion agreement, the charges against the defendant shall be listed as "dismissed-diverted" and shall not constitute a criminal conviction.+>>

<<+(2) The defendant shall not be required to list this disposition on any application for employment, licensure, or otherwise unless required to do so by federal law.+>>

<<+(3) Pretrial diversion records shall not be introduced as evidence in any court in a civil, criminal, or other matter without the consent of the defendant.+>>

SECTION 91. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

<<+The Supreme Court of Kentucky shall, by rule, determine all forms and other matters necessary for the proper administration of the pretrial diversion program.+>>

SECTION 92. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

<<+(1) The pretrial diversion program authorized by Sections 86 to 91 of this Act shall be the sole program utilized in the Circuit Courts of the Commonwealth.+>>

<<+(2) As of the effective date of this section, the only other pretrial diversion programs utilized by the Commonwealth shall be those authorized by the Kentucky Supreme Court and providing for the pretrial diversion of misdemeanants. Programs existing as of the effective date of this section may continue for the purpose of supervising persons granted pretrial diversion prior to the effective date of this section, however no new persons shall be admitted to these programs.+>>

<<+(3) A person who is in a pretrial diversion program as of the effective date of this section may continue in that program until he or she successfully completes the program or is removed from the program for other reasons, whichever occurs earlier.+>>

Section 93. KRS 197.500 is amended to read as follows:

<< KY ST § 197.500 >>

As used in KRS 197.505 to 197.525, unless the context otherwise requires:

(1) "Department" means the Department of Corrections;

(2) "Adult correctional facility" means <<+any minimum or medium adult penal or correctional facility operated for the purpose of housing convicted felons for the department+>><<-an adult penal or correctional facility for the exclusive confinement of sentenced adult felons who have been classified by the department to be minimum security and restricted custody inmates and shall include any prison, reformatory, farm center, forestry camp, or similar institution which houses minimum security sentenced adult felons. For purposes of KRS 197.505 to 197.525, a county or regional jail shall not be considered an adult correctional facility->>; and

(3) "Private provider" means a private legal entity authorized to do business in the Commonwealth and which is in the business of establishing, operating, and managing adult correctional facilities.

SECTION 94. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

<<+All persons, while acting for a private provider pursuant to the provisions of KRS 197.505 to 197.525 in any capacity entailing the maintenance of custody over any prisoners, shall have the power and authority of peace officers, including the authority granted to Department of Corrections employees pursuant to KRS 196.037(2).+>>

SECTION 95. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

<<+(1) When KRS 197.510 or any other statute relating to contracting for the private operation of prisons requires a performance bond, an irrevocable letter of credit or a performance bond in a form satisfactory to the Commonwealth may be substituted.+>>

<<+(2) The contract shall also protect the state's interest in providing a continual level of prison beds available without a sudden drop in the number of prison beds available or the need to release inmates or provide for their transfer to other facilities.+>>

Section 96. KRS 197.170 is amended to read as follows:

<< KY ST § 197.170 >>

(1) The wardens of the state penitentiaries upon the release of any prisoner or inmate from confinement, shall immediately notify the Circuit Court, the Commonwealth's attorney of the district, the county attorney and sheriff of the county, the chief of police of the city and county, to which the inmate is released, and any victim, as defined in KRS 421.500, who has requested that he be notified on release of a particular inmate who victimized him and who has forwarded a current address and telephone number to the Department of Corrections, giving the residence of the person released and the name of the person to whom he was released. The provisions of KRS Chapter 202A notwithstanding, the Department of Corrections may release to the public the information that a petition to involuntarily hospitalize a prisoner has been filed concerning any inmate who is scheduled to be released from custody.

(2) If the Circuit Court notified pursuant to subsection (1) of this section is a court other than the court which sentenced the inmate, the warden shall also notify the sentencing court.

(3) Notices received by sheriffs and chiefs of police shall be posted in a conspicuous location where personnel employed by the department may see it. <<+Notices posted pursuant to this subsection shall remain posted for not less than seven (7) days.+>>

SECTION 97. A NEW SECTION OF KRS CHAPTER 455 IS CREATED TO READ AS FOLLOWS:

<<+In the event of a charge for a violation of KRS 514.040 with an amount of one hundred dollars (\$100) or less, a summons shall be issued prior to an arrest warrant. An arrest warrant shall not be issued until the person charged fails to respond to the summons; unless the issuing judge determines that, based upon previous offenses or charges, an arrest of the person is necessary in order to reasonably assure his or her appearance in court.+>>

Section 98. KRS 15.310 is amended to read as follows:

<< KY ST § 15.310 >>

As used in KRS 15.315 to 15.510, 15.990 and 15.992, unless the context otherwise requires:

(1) <<+"Basic training course" means the peace officer basic training course provided by the Department of Criminal Justice Training or a course approved and recognized by the Kentucky Law Enforcement Council pursuant to KRS 15.440;+>>

<<+(2) "Certified peace officer" means a peace officer who is certified under Sections 99 to 110 of this Act;+>>

<<+(3) "Certification" means the act by the council of issuing certification to a peace officer who successfully completes the training requirements established or approved by the Kentucky Law Enforcement Council pursuant to KRS 15.440 and the requirements set forth within this chapter;+>>

<<+(4)+>> "Council" means the Kentucky Law Enforcement Council established by KRS 15.315 to 15.510, 15.990 and 15.992;

<<+(5)+>><<-(2)->> "Department" means the Department of Criminal Justice Training of the Justice Cabinet;

<<+(6)>><<-(3)>> “Law enforcement officer” means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus security officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement, and special local peace officers licensed pursuant to KRS 61.360;<<- and->>

<<+(7) “Peace officer” means a person defined in KRS 446.010;>>

<<+(8)>><<-(4)>> “Secretary” means the secretary of the Justice Cabinet<<+; and>>

<<+(9) “Validated job task analysis” means the minimum entry level qualifications and training requirements for peace officers in the Commonwealth based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study>>.

SECTION 99. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

<<+(1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:>>

<<+(a) State Police officers;>>

<<+(b) City, county, and urban-county police officers;>>

<<+(c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);>>

<<+(d) State or public university safety and security officers appointed pursuant to KRS 164.950;>>

<<+(e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;>>

<<+(f) Airport safety and security officers appointed under KRS 183.880;>>

<<+(g) Department of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090; and>>

<<+(h) Division of Insurance Fraud Investigators appointed under KRS 304.47–040.>>

<<+(2) The requirements of Sections 99 to 110 of this Act for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Department of Personnel for job specifications.>>

<<+(3) Additional training in excess of the standards set forth in Sections 99 to 110 of this Act for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.>>

<<+(4) The following officers may, upon request of the employing agency, be certified by the council:>>

<<+(a) Deputy coroners;>>

<<+(b) Deputy constables;>>

<<+(c) Deputy jailers;>>

<<+(d) Deputy sheriffs under KRS 70.045 and 70.263(3);>>

<<+(e) Officers appointed under KRS 61.360;>>

<<+(f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;>>

<<+(g) Private security officers; and>>

<<+(h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080.>>

<<+(5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:>>

<<+(a) Sheriffs;>>

<<+(b) Coroners;>>

<<+(c) Constables; and>>

<<+(d) Jailers.>>

<<+(6) Federal peace officers cannot be certified under Sections 99 to 110 of this Act.>>

SECTION 100. A NEW SECTION OF KRS 15.310 TO 15.510 IS CREATED TO READ AS FOLLOWS:

<<+A person certified after December 1, 1998, under Sections 99 to 110 of this Act shall, at the time of becoming certified, meet the following minimum qualifications:>>

<<+(1) Be a citizen of the United States;>>

<<+(2) Be at least twenty-one (21) years of age;>>

<<+(3) Be a high school graduate or have successfully completed a General Education Development (G.E.D.) examination;>>

<<+(4) Possess a valid license to operate a motor vehicle;>>

<<+(5) Be fingerprinted for a criminal background check;+>>

<<+(6) Not have been convicted of any felony;+>>

<<+(7) Not be prohibited by federal or state law from possessing a firearm;+>>

<<+(8) Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;+>>

<<+(9) Have received an honorable discharge if having served in any branch of the armed forces of the United States;+>>

<<+(10) Have passed a medical examination by the council to determine if he can perform peace officer duties as determined by a validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall pass the medical examination, appropriate to the agency's job task analysis, of the employing agency. All agencies shall certify passing medical examination results to the council which shall accept them as complying with KRS 15.315 to 15.510;+>>

<<+(11) Have passed a drug screening test administered or approved by the council by administrative regulation. A person shall be deemed to have passed a drug screening test if the results of the test are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own test that meets or exceeds this standard shall certify passing test results to the council which shall accept them as complying with KRS 15.315 to 15.510;+>>

<<+(12) Have undergone a background investigation established or approved by the council by administrative regulation to determine suitability for the position of a peace officer. If the employing agency has established its own background investigation that meets or exceeds the standards of the council, as set forth by administrative regulation, the agency shall conduct the background investigation and shall certify background investigation results to the council, which shall accept them as complying with KRS 15.315 to 15.510;+>>

<<+(13) Have been interviewed by the employing agency;+>>

<<+(14) Not have had certification as a peace officer permanently revoked in another state;+>>

<<+(15) Have taken a psychological examination administered or approved by the council by administrative regulation to determine the person's suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take that agency's psychological examination, appropriate to the agency's job task analysis. All agencies shall certify psychological examination results to the council which shall accept them as complying with KRS 15.315 to 15.510;+>>

<<+(16) Have passed a physical agility test administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take the physical agility examination of the employing agency. All agencies shall certify physical agility examination results to the council, which shall accept them as demonstrating compliance with KRS 15.315 to 15.510; and+>>

<<+(17) Have taken a polygraph examination administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties. Any agency that administers its own polygraph examination as approved by the council shall certify the results that indicate whether a person is suitable for employment as a peace officer to the council, which shall accept them as complying with KRS 15.315 to 15.510.+>>

SECTION 101. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

<<+(1) The council shall administer the physical agility, polygraph, psychological, and drug screen tests at cost for those agencies requesting council-administered tests. Agencies may petition the council for waiver of the costs of these tests upon a showing of undue financial hardship.+>>

<<+(2) An agency may, at its own expense, administer its own physical agility, polygraph, psychological, medical, and drug screen tests, as well as additional tests.+>>

SECTION 102. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

<<+The following certification categories shall exist:+>>

<<+(1) Precertification status. The officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in Section 100 of this Act, but has not successfully completed a basic training course, except those officers covered by Section 109 of this Act. The officer shall have full peace officer powers as authorized under the statute under which he was appointed or employed. If an officer fails to successfully complete a basic training course within one (1) year of employment, his enforcement powers shall automatically terminate, and he shall not exercise peace officer powers in the Commonwealth until he has successfully completed a basic training course.+>>

<<+(2) Certification status. Unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have full peace officer powers as authorized under the statute under which he was appointed or employed.+>>

<<+(3) Inactive status.+>>

<<+(a) The person has been separated from the agency by which he was employed or appointed and has no peace officer powers;+>>

<<+(b) The person has been employed by another agency in a non-peace officer position; or+>>

<<+(c) The person is on military active duty for a period exceeding three hundred sixty-five (365) days.+>>

<<+The person may remain on inactive status. A person who is on inactive status and who returns to a peace officer position shall have certification status restored if he has not committed an act for which his certified status may be revoked pursuant to Sections 99 to 110 of this Act and by successfully completing forty (40) hours of in-service training as prescribed by the council.+>>

<<+(4) Revoked or denied status. The officer has no enforcement powers and has been separated from an enforcement agency for any one (1) of the following reasons:+>>

<<+(a) Failure to meet or maintain training requirements;+>>

<<+(b) Willful falsification of information to obtain or maintain certified status;+>>

<<+(c) Certification was the result of an administrative error;+>>

<<+(d) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;+>>

<<+(e) Prohibition by federal or state law from possessing a firearm.+>>

<<+(5) The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified peace officer.+>>

SECTION 103. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

<<+(1) Within five (5) working days of employment or appointment, the chief executive officer of the employing agency, or his designee, shall file a report with the council certifying that the newly employed officer is certified or meets or exceeds the precertification qualifications of Section 100 of this Act.+>>

<<+(2) If the person is certified, the council shall continue certified status.+>>

<<+(3) If the person is on inactive status, the council shall upgrade to certified status unless the certification is revoked as provided by Sections 99 to 110 of this Act.+>>

<<+(4) If the person is not certified and not on inactive status, the council shall designate the person as being in precertification status.+>>

<<+(5) A person who is in precertification status shall, upon successful completion of the required basic training, be certified unless he has committed an act that would result in revocation of his certificate in which case he shall be denied certification.+>>

<<+(6) A person who is denied certified status under this section shall have the same right of appeal as a person who has been revoked under Sections 99 to 110 of this Act.+>>

<<+(7) If the certified officer has successfully completed the basic training required by KRS 95.955 and transfers from a peace officer position from a current employer to a peace officer position for another employer, and both employers have, at least ten (10) working days prior to the effective date of the transfer, notified the council in writing of the transfer, the council shall maintain the officer in certified status.+>>

SECTION 104. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

<<+Any person who is aggrieved by a determination by the employing agency or by the council that he fails to meet the requirements for precertification status may:+>>

<<+(1) If the determination was made by the employing agency, appeal the decision in the same manner as other employment appeals within the agency, if an appeals procedure has been established by the employing agency; or+>>

<<+(2) If the determination was made by the council, appeal the decision to the local Circuit Court having jurisdiction over the employing agency.+>>

SECTION 105. A NEW SECTION OF KRS CHAPTER 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

<<+(1) Within ten (10) working days from separation from service, the chief executive officer of the employing agency, or his designee, shall file with the council a summary report that provides the relevant information about the person's separation from service.+>>

<<+(2) If the person has been separated for having pled guilty to, been convicted of, or entered an Alford plea to a felony, the council shall revoke the person's certification.+>>

<<+(3) If the person has been separated for any other reason other than death, the council shall place the certification on inactive status. If the person has been separated due to death, the certification shall be retired.+>>

<<+(4) The employing agency's findings of fact and evidentiary conclusions shall be deemed final. The council shall be limited only to revoking the certification.+>>

<<+(5) The council shall not accept or hear complaints.+>>

SECTION 106. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

<<+(1) If the council believes an agency's job task analysis to be insufficient or erroneous, the council shall file a declaratory action in Franklin Circuit Court to declare the job task analysis invalid.+>>

<<+(2) Until the job task analysis has been declared invalid and all appeals have been exhausted, the council shall accept the

agency's job task analysis.+>>>

SECTION 107. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

<<+(1) An agency may be required to pay for all training received by a person from the Department of Criminal Justice Training or any other facility approved by the Kentucky Law Enforcement Council if the agency knowingly employs or appoints a person to be an officer of any type as enumerated in Section 99 of this Act and if that person fails to achieve certified status as required by Sections 99 to 110 of this Act.+>>>

<<+(2) The agency shall be denied participation in the Kentucky Law Enforcement Foundation Program Fund if the agency knowingly employs or appoints a person to be an officer of any type as enumerated in Section 99 of this Act and if that person:+>>>

<<+(a) Fails to meet those minimum qualifications set forth in Section 110 of this Act;+>>>

<<+(b) Fails to achieve certified status as required by Sections 99 to 110 of this Act; or+>>>

<<+(c) Fails to maintain the minimum training requirements set forth in KRS 95.955.+>>>

SECTION 108. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

<<+(1) The following Kentucky Revised Statutes and any administrative regulations promulgated thereunder affecting those peace officers required to be certified pursuant to Sections 99 to 110 of this Act shall not be superseded by the provisions of Sections 99 to 110 of this Act, and in all instances the provisions of all statutes specified below shall prevail:+>>>

<<+(a) KRS Chapter 16, relating to Kentucky State Police Officers;+>>>

<<+(b) KRS Chapter 70, relating to sheriffs, and deputy sheriffs;+>>>

<<+(c) KRS Chapter 78, relating to county police;+>>>

<<+(d) KRS Chapters 15 and 95, relating to city and urban-county police;+>>>

<<+(e) KRS Chapter 183, relating to airport safety and security officers;+>>>

<<+(f) KRS Chapter 164, relating to State Universities and Colleges; Regional Education and Archaeology officers;+>>>

<<+(g) KRS Chapter 18A, relating to all state peace officers;+>>>

<<+(h) KRS 241.090, relating to Department of Alcoholic Beverage Control field representatives and investigators;+>>>

<<+(i) KRS 304.47-040, relating to Division of Insurance Fraud Investigators; and+>>>

<<+(j) Any other statutes affecting peace officers not specifically cited herein.+>>>

SECTION 109. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

<<+(1) The effective date of Sections 99 to 110 of this Act shall be December 1, 1998. All peace officers employed as of December 1, 1998, shall be deemed to have met all the requirements of Sections 99 to 110 of this Act and shall be granted certified status as long as they remain in continuous employment of the agency by which they were employed as of the effective date of this Act, or shall have successfully completed an approved basic training course approved and recognized by the Kentucky Law Enforcement Council pursuant to KRS 15.440(4) when seeking employment with another law enforcement agency.+>>>

<<+(2) Any peace officers employed after December 1, 1998, shall comply with all minimum standards specified in Sections 99 to 110 of this Act. Persons newly employed or appointed after December 1, 1998, shall have one (1) year within which to gain certified status or they shall lose their law enforcement powers.+>>>

<<+(3) The Open Records Act notwithstanding, the person's home address, telephone number, date of birth, social security number, background investigation, medical examination, psychological examination, and polygraph examination conducted pursuant to his statute shall not be subject to disclosure.+>>>

SECTION 110. A NEW SECTION OF KRS 15.315 TO 15.510 IS CREATED TO READ AS FOLLOWS:

<<+No provisions of Sections 99 to 110 of this Act shall preclude an appointing or employing agency from having requirements that are in excess of or in addition to any requirements specified by this Act or an administrative regulation promulgated under Sections 99 to 110 of this Act.+>>>

Section 111. KRS 532.055 is amended to read as follows:

<< KY ST § 532.055 >>

(1) In all felony cases, the jury in its initial verdict will make a determination of not guilty, guilty, guilty but mentally ill, or not guilty by virtue of insanity, and no more.

(2) Upon return of a verdict of guilty or guilty but mentally ill against a defendant, the court shall conduct a sentencing hearing before the jury, if such case was tried before a jury. In the hearing the jury will determine the punishment to be imposed within the range provided elsewhere by law. The jury shall recommend whether the sentences shall be served concurrently or consecutively.

(a) Evidence may be offered by the Commonwealth relevant to sentencing including:

1. Minimum parole eligibility, prior convictions of the defendant, both felony and misdemeanor;

2. The nature of prior offenses for which he was convicted;
 3. The date of the commission, date of sentencing, and date of release from confinement or supervision from all prior offenses;
 4. The maximum expiration of sentence as determined by the division of probation and parole for all such current and prior offenses;
 5. The defendant's status if on probation, parole, conditional discharge, or any other form of legal release;<<- and->>
 6. Juvenile court records of adjudications of guilt of a child for an offense that would be a felony if committed by an adult. Subject to the Kentucky Rules of Evidence, these records shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial, and may be used during the sentencing phase of a criminal trial; however, the fact that a juvenile has been adjudicated delinquent of an offense that would be a felony if the child had been an adult shall not be used in finding the child to be a persistent felony offender based upon that adjudication. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the federal Social Security Act is also prohibited; <<+and+>>
 - <<+7. The impact of the crime upon the victim, as defined in KRS 421.500, including a description of the nature and extent of any physical, psychological, or financial harm suffered by the victim;+>>
 - (b) The defendant may introduce evidence in mitigation <<+or in support of leniency+>><<- For purposes of this section, mitigating evidence means evidence that the accused has no significant history of criminal activity which may qualify him for leniency. This section shall not preclude the introduction of evidence which negates any evidence introduced by the Commonwealth->>; and
 - (c) Upon conclusion of the proof, the court shall instruct the jury on the range of punishment and counsel for the defendant may present arguments followed by the counsel for the Commonwealth. The jury shall then retire and recommend a sentence for the defendant.
 - (3) All hearings held pursuant to this section shall be combined with any hearing provided for by KRS 532.080.<<- This section shall not apply to sentencing hearings provided for in KRS 532.025.->>
 - (4) In the event that the jury is unable to agree as to the sentence or any portion thereof and so reports to the judge, the judge shall impose the sentence within the range provided elsewhere by law.
- Section 112. KRS 439.315 is amended to read as follows:

<< KY ST § 439.315 >>

- (1) A person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the Department of Corrections and all persons supervised pursuant to KRS 439.560 shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release.
- (2) The fees shall be as follows:
 - (a) For a felony, not less than ten dollars (\$10) per month while on active supervision nor more than two thousand five hundred dollars (\$2,500) <<+per year+>>.
 - (b) For a misdemeanor, not less than ten dollars (\$10) per month while on active supervision nor more than five hundred dollars (\$500) <<+per year+>>, except as provided in subsection (13) of this section.
- (3) The releasing authority shall order the fee paid in a lump sum or installments. If the fee is to be paid in a lump sum, the person shall not be released from custody until the fee is paid in full.
- (4) Upon the failure of a person to pay an installment on a fee set forth in a release agreement, the releasing authority shall hold a hearing to determine why the installment has not been paid. Failure without good cause to pay an installment pursuant to a release agreement shall be grounds for the revocation of probation, parole, conditional release, or other form of release upon which the person has been released as provided in KRS 533.050.
- (5) The releasing authority shall hold a hearing to determine the ability of the defendant to make the payments; and in making this determination, the releasing authority shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. In counties containing a city of the first class or an urban-county form of government, the releasing authority may waive the payment of the fee in whole or in part for defendants placed under the supervision of the adult misdemeanor probation and work release program, if it finds that any of the factors in subsection (6) of this section exist.
- (6) The releasing authority shall not waive any fee unless the commissioner of the Department of Corrections or his designee petitions the releasing authority in written form for the waiver. The Department of Corrections shall not petition unless:
 - (a) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the

student for gainful employment. Certification of student status shall be supplied to the releasing authority by the educational institution in which the offender is enrolled. In such case, the fee may be postponed until completion of education but shall be paid thereafter.

(b) The offender has an employment disability, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the releasing authority.

(7) At any time during the pendency of the judgment or order rendered according to the terms of this section, a defendant may petition the releasing authority to modify or vacate its previous judgment or order on the grounds of change of circumstances with regard to the defendant's ability to pay the fee. The releasing authority shall advise the defendant of this right at the time of the rendering of the judgment or order placing the defendant on probation, parole, or other supervised release.

(8) All sums paid by the defendant pursuant to this section shall be paid into the general fund, except as provided in subsection (13) of this section.

(9) When granting a release of any defendant by way of probation, parole, or otherwise, the releasing authority shall make the payment of this fee a condition of release, unless the fee has been waived, reduced, or delayed as provided in this section. Nonpayment shall be grounds for revocation of the release as provided in KRS 533.050.

(10) The releasing authority, if the Department of Corrections petitions the releasing authority to modify the fee, shall consider the petition and may waive the payment of the fee in whole or in part, delay payment of the fee, increase the fee, or deny the petition.

(11) All fees fixed under the provisions of this section shall be collected by the circuit clerk of the county where the defendant is supervised, except as provided in subsection (13) of this section.

(12) The Department of Corrections and the Division of Probation and Parole shall, for each person released under its supervision, keep an account of all payments made and report delinquencies to the releasing authority.

(13) In counties containing a city of the first class or an urban-county form of government, persons placed by a releasing authority on probation, parole, or other release subject to supervision by the adult misdemeanor probation and work release program of the county containing a city of the first class or urban-county government shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. The fees shall be assessed by the releasing authority in accordance with the provisions of this section. The fee for a misdemeanor defendant placed under the supervision of an adult misdemeanor probation and work release program of a county containing a city of the first class or an urban-county government shall be not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) <<+per year+>>. All sums paid by the defendant under this subsection shall be paid into the general fund of the county containing a city of the first class or urban-county government in lieu of the payment specified in subsection (8) of this section. All fees fixed under this subsection shall be collected by the circuit clerk of the county containing a city of the first class or urban-county involved. The adult misdemeanor probation and work release program of the county containing a city of the first class or urban-county government shall, for each person released under its supervision, keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk, and report delinquencies to the court.

Section 113. KRS 337.010 is amended to read as follows:

<< KY ST § 337.010 >>

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

(a) "Commissioner" means commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;

(b) "Department" means Department of Workplace Standards in the Labor Cabinet;

(c) "Wages" include any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;
 3. Any individual employed by the United States;
 4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;
 5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;
 6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars (\$95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;
 7. Any individual employed as a babysitter in employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;
 8. Any individual engaged in the delivery of newspapers to the consumer;
 9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the commissioner of the Department of Personnel shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;
 10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year; or
 11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Human Resources under KRS 199.640 to 199.670.
 - (b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;
 - (c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;
 - (d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars (\$30) per month in tips; and
 - (e) "U.S.C." means the United States Code.
- (3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:
- (a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars (\$250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;
 - (b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;
 - (c) 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but, if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and
 2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined

by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly-owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works<<+, and any "private provider", as defined in Section 93 of this Act, which enters into any contract for the construction of an "adult correctional facility", as defined in Section 93 of this Act+>>; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work<<+, including "adult correctional facilities", as defined in Section 93 of this Act,+>> constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Section 114. KRS 532.110 is amended to read as follows:

<< KY ST § 532.110 >>

(1) When multiple sentences of imprisonment are imposed on a defendant for more than one (1) crime, including a crime for which a previous sentence of probation or conditional discharge has been revoked, the multiple sentences shall run concurrently or consecutively as the court shall determine at the time of sentence, except that:

(a) A definite and an indeterminate term shall run concurrently and both sentences shall be satisfied by service of the indeterminate term;

(b) The aggregate of consecutive definite terms shall not exceed one (1) year; and

(c) The aggregate of consecutive indeterminate terms shall not exceed in maximum length the longest extended term which would be authorized by KRS 532.080 for the highest class of crime for which any of the sentences is imposed. <<+In no event shall the aggregate of consecutive indeterminate terms exceed seventy (70) years.+>>

(2) If the court does not specify the manner in which a sentence imposed by it is to run, the sentence shall run concurrently with any other sentence which the defendant must serve.

(3) When a defendant is sentenced to imprisonment for a crime committed while on parole in this state, the term of imprisonment and any period of reimprisonment that the board of parole may require the defendant to serve upon the revocation of his parole shall run concurrently, unless the court orders them to run consecutively.

(4) Notwithstanding any provision in this section to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, during an escape from imprisonment, or while he awaits imprisonment, the sentence imposed for that offense may be added to the portion of the term which remained unserved at the time of the commission of the offense. The sentence imposed upon any person convicted of an escape or attempted escape offense shall run consecutively with any other sentence which the defendant must serve.

(5) Notwithstanding any provision in this chapter to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, the sentence imposed for that offense may, upon order of the trial court, be served in that institution. The person may be transferred to another institution pursuant to administrative regulations of the Department of Corrections.

SECTION 115. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

<<+(1) When a person is convicted of, pleads guilty to, or enters an Alford plea to a felony offense and is sentenced to jail as a condition of conditional discharge, or as a condition of probation, the Department of Corrections shall pay for the incarceration of that person in a county jail at the same rate and under the same conditions as for a Class D felon who is incarcerated in the county jail under KRS 532.100.+>>

<<+(2) If a person incarcerated in a county jail on conditional discharge or probation under subsection (1) of this section is granted work release, he shall pay the work release fees required by law to the jailer. The amount of work release fees paid by a prisoner shall be deducted from the amount which the Department of Corrections shall pay for the incarceration of that prisoner.+>>

Section 116. KRS 640.010 is amended to read as follows:

<< KY ST § 640.010 >>

(1) For children who are alleged to be youthful offenders by falling in the purview of KRS 635.020(2), (3),~~<<- (4),->>~~ (5), (6), (7),~~<<- or->>~~ (8) ~~<<+or (9)+>>~~, the court shall at arraignment assure that the child's rights as specified in KRS 610.060 have been explained and followed.

(2) In the case of a child alleged to be a youthful offender by falling within the purview of KRS 635.020~~<<+(2), (3), (6), (7), (8), or (9)+>>~~, the District Court shall, upon motion by the county attorney to proceed under this chapter, and after the county attorney has consulted with the Commonwealth's attorney, conduct a preliminary hearing to determine if the child should be transferred to Circuit Court as a youthful offender. The preliminary hearing shall be conducted in accordance with the Rules of Criminal Procedure.

(a) At the preliminary hearing, the court shall determine if there is probable cause to believe that an offense was committed, that the child committed the offense, and that the child is of sufficient age and has the requisite number of prior adjudications, if any, necessary to fall within the purview of KRS 635.020.

(b) If the District Court determines probable cause exists, the court shall consider the following factors before determining whether the child's case shall be transferred to the Circuit Court:

1. The seriousness of the alleged offense;
2. Whether the offense was against persons or property, with greater weight being given to offenses against persons;
3. The maturity of the child as determined by his environment;
4. The child's prior record;
5. The best interest of the child and community;
6. The prospects of adequate protection of the public;~~<<- and->>~~
7. The likelihood of reasonable rehabilitation of the child by the use of procedures, services, and facilities currently available to the juvenile justice system~~<<+; and+>>~~
- ~~<<+8. Evidence of a child's participation in a gang+>>~~.

(c) If, following the completion of the preliminary hearing, the District Court finds, after considering the factors enumerated in paragraph (b) of this subsection, that two (2) or more of the factors specified in paragraph (b) of this subsection are determined to favor transfer, the child may be transferred to Circuit Court, and if the child is transferred the District Court shall issue an order transferring the child as a youthful offender and shall state on the record the reasons for the transfer. The child shall then be proceeded against in the Circuit Court as an adult, except as otherwise provided in this chapter.

(d) If, following completion of the preliminary hearing, the District Court is of the opinion, after considering the factors enumerated in paragraph (b) of this subsection that the child shall not be transferred to the Circuit Court, the case shall be dealt with as provided in KRS Chapter 635.

(3) If the child is transferred to Circuit Court under this section and the grand jury does not find that there is probable cause to indict the child as a youthful offender, as defined in KRS 635.020(2), (3), ~~<<+(5)+>>~~~~<<- (4)->>~~, (6),~~<<- and->>~~ (7), ~~<<+and (8),+>>~~ but does find that there is probable cause to indict the child for another criminal offense, the child shall not be tried as a youthful offender in Circuit Court but shall be returned to District Court to be dealt with as provided in KRS Chapter 635.

Section 117. KRS 15.330 is amended to read as follows:

~~<< KY ST § 15.330 >>~~

(1) The council is vested with the following functions and powers:

(a) To prescribe standards for the approval and continuation of approval of schools at which law enforcement training courses required under KRS 15.310 to 15.510 and KRS 15.990 to 15.992 shall be conducted, including but not limited to minimum standards for facilities, faculty, curriculum, and hours of attendance related thereto;

(b) To prescribe minimum qualifications for instructors at such schools, except that institutions of higher education shall be exempt from council requirements;

(c) To prescribe qualifications for attendance and conditions for expulsion from such schools;

(d) To approve, to issue and to revoke for cause certificates to schools and instructors as having met requirements under KRS 15.310 to 15.510 and KRS 15.990 to 15.992;

(e) To approve law enforcement officers and other persons as having met requirements under KRS 15.310 to 15.510 and KRS 15.990 to 15.992;

(f) To inspect and evaluate schools at any time and to require of schools, instructors and persons approved or to be approved under the provisions of KRS 15.310 to 15.510 and KRS 15.990 to 15.992, any information or documents;

(g) To recommend reasonable rules and regulations to the secretary to accomplish the purposes of KRS 15.310 to 15.510 and KRS 15.990 to 15.992;

(h) To monitor the Law Enforcement Foundation Program as prescribed in KRS 15.410 to 15.510;~~<<- and->>~~

- (i) To adopt bylaws for the conduct of its business not otherwise provided for<<+; and+>>
- <<+(j) The council shall have the authority to certify police officers as set out in this chapter+>>.
- (2) The provisions of KRS 15.310 to 15.510 and KRS 15.990 to 15.992 do not apply to the Department of State Police <<+except for the certification requirement established by this chapter+>>.
- Section 118. KRS 532.045 is amended to read as follows:

<< KY ST § 532.045 >>

- (1) As used in this section:
- (a) "Position of authority" means, but is not limited to, the position occupied by a biological parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational staff or volunteer who is an adult, adult athletic manager, adult coach, teacher, counselor, staff or volunteer for either a residential treatment facility, a holding facility as defined in KRS 600.020, or a detention facility as defined in KRS 520.010(4), staff or volunteer with a youth services organization, religious leader, health care provider, or employer;
- (b) "Position of special trust" means a position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the minor; and
- (c) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or the victim, by any foreign object; oral copulation; or masturbation of either the minor or the offender.
- (2) Notwithstanding other provisions of applicable law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provision of this section be stricken for a person convicted of violating KRS 510.040, 510.050, 510.070, 510.080, 529.030 to 529.050, 529.070, 530.020, 531.310, 531.320, 531.370, or criminal attempt to commit any of these offenses under KRS 506.010, and, who meets one (1) or more of the following criteria:
- (a) A person who commits any of the offenses enumerated in this subsection against a minor by the use of force, violence, duress, menace, or threat of bodily harm;
- (b) A person who, in committing any of the offenses enumerated in this subsection, caused bodily injury to the minor;
- (c) A person convicted of any of the offenses enumerated in this subsection and who was a stranger to the minor or made friends with the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection, unless the defendant honestly and reasonably believed the minor was eighteen (18) years old or older;
- (d) A person who used a dangerous instrument or deadly weapon against a minor during the commission of any of the offenses enumerated in this subsection;
- (e) A person convicted of any of the offenses enumerated in this subsection and who has had a prior conviction of assaulting a minor, with intent to commit an act constituting any of the offenses enumerated in this subsection;
- (f) A person convicted of kidnapping a minor in violation of the Kentucky penal code and who kidnapped the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection;
- (g) A person who is convicted of committing any of the offenses enumerated in this subsection on more than one (1) minor at the same time or in the same course of conduct;
- (h) A person who in committing any of the offenses enumerated in this subsection has substantial sexual conduct with a minor under the age of fourteen (14) years; or
- (i) A person who occupies a position of special trust and commits an act of substantial sexual conduct.
- <<+Nothing in this section shall be construed to prohibit the additional period of three (3) years conditional discharge required by Section 25 of this Act.+>>
- (3) If a person is not otherwise prohibited from obtaining probation or conditional discharge under subsection (2), the court may impose on the person a period of probation or conditional discharge. Probation or conditional discharge shall not be granted until the court is in receipt of an evaluation of the offender performed by the sex offender treatment program operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services. The court shall use the evaluation in determining the appropriateness of probation or conditional discharge.
- (4) If the court grants probation or conditional discharge, the offender shall be required, as a condition of probation or conditional discharge, to successfully complete a community-based sexual offender treatment program operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services.
- (5) The offender shall pay for any evaluation or treatment required pursuant to this section up to the offender's ability to pay but not more than the actual cost of the evaluation or treatment.
- (6) Failure to successfully complete the sexual offender treatment program constitutes grounds for the revocation of probation or conditional discharge.
- (7) All communications relative to the evaluation and treatment of a sexual offender shall fall under the provisions of KRS

197.440 and shall not be made a part of the court record subject to review in appellate proceedings.

(8) Before imposing sentence, the court shall advise the defendant or his counsel of the contents and conclusions of any evaluation performed pursuant to this section and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel a copy of the evaluation. It shall not be necessary to disclose the sources of confidential information.

(9) To the extent that this section conflicts with KRS 533.010, this section shall take precedence.

SECTION 119. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

<<+(1) There is hereby created a program for prerelease probation of inmates confined in correctional facilities under the jurisdiction of or under contract to the Department of Corrections.+>>

<<+(2) Any inmate who is in a prerelease program or eligible for a prerelease program as specified by administrative regulations of the Department of Corrections may apply to the sentencing court for prerelease probation.+>>

<<+(3) The court, upon favorable recommendation of the Department of Corrections, may place the inmate on probation under those terms and conditions the court deems necessary, which may include but not need to be limited to those specified in KRS 533.030.+>>

<<+(4) In particular, the court may require that an inmate placed on prerelease probation remain in a half-way house approved by the Department of Corrections and that the probationer pay the cost of his or her lodging in the half-way house and the costs of probation supervision in accordance with applicable statutes for probation supervision and persons granted work release from jail.+>>

<<+(5) An inmate placed on prerelease probation shall no longer be considered as an inmate of the Department of Corrections but shall be considered as a defendant placed on probation, subject to supervision by the Division of Probation and Parole, or other agency approved by the court, and the orders of the court.+>>

<<+(6) A person placed on prerelease probation by the court who violates the conditions of his or her probation may be dealt with by the court in the same manner as any other person who violates the conditions of probation.+>>

<<+(7) The period of probation under this section shall not exceed the maximum expiration date of the inmate applying for the probation.+>>

Section 120. KRS 15.440 is amended to read as follows:

<< KY ST § 15.440 >>

Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

(1) Employs one (1) or more police officers;

(2) Pays every police officer <<+at least the+>><<-a->> minimum <<+ federal wage+>><<-annual salary of four thousand three hundred fifty dollars (\$4,350)->>;

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972<<+, and for all sheriffs appointed or elected on or after the effective date of this Act, and all deputy sheriffs, and state or public university police officers employed after the effective date of this Act+>>; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection<<+, and that all sheriffs serving in office on the effective date of this Act, all deputy sheriffs, and state or public university police, employed prior to the effective date of this Act shall be deemed to have met the requirements of this subsection+>>;

(4) Requires all police officers employed on or after July 1, 1972, <<+and all sheriffs appointed or elected on or after the effective date of this Act, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998,+>> to successfully complete a basic training course of at least four hundred (400) hours' duration within one year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council<<+. All sheriffs serving in office on the effective date of this Act, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998, shall be deemed to have met the requirements of this subsection. The council may, by promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than four hundred (400) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis+>><<-; notwithstanding the authority of any department or administrative agency of state government to promulgate administrative regulations, no such department or administrative agency may, by administrative action, increase the minimum number of hours for a basic training course specified in this subsection->>;

(5) Requires all police officers, whether originally employed before or after July 1, 1972, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his

department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council;

(6) Requires compliance with all provisions of law applicable to local police, <<+state or public university police, or sheriffs and their deputies,+>> including transmission of data to the centralized criminal history record information system as required by KRS 17.150;

(7) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, <<+state or public university police department, or sheriff's office,+>> issued by the Justice Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(8) Provided, however, that no local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department<<+, state or public university police department, or sheriff's office+>> actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department<<+, state or public university police department, or sheriff's office+>> has substantially complied with subsections (6) and (7) of this section.

Section 121. KRS 197.170 is amended to read as follows:

<< KY ST § 197.170 >>

(1) The wardens of the state penitentiaries upon the release of any prisoner or inmate from confinement, shall immediately notify the Circuit Court, the Commonwealth's attorney of the district, the county attorney and sheriff of the county, the chief of police of the city and county, to which the inmate is released, and any victim, as defined in KRS 421.500, who has requested that he be notified on release of a particular inmate who victimized him and who has forwarded a current address and telephone number to the Department of Corrections, giving the residence of the person released and the name of the person to whom he was released. The provisions of KRS Chapter 202A notwithstanding, the Department of Corrections may release to the public the information that a petition to involuntarily hospitalize a prisoner has been filed concerning any inmate who is scheduled to be released from custody.

(2) If the Circuit Court notified pursuant to subsection (1) of this section is a court other than the court which sentenced the inmate, the warden shall also notify the sentencing court.

(3) Notices received by sheriffs and chiefs of police shall be posted in a conspicuous location where personnel employed by the department may see it. <<+Notices posted pursuant to this subsection shall remain posted for not less than seven (7) days.+>>

Section 122. KRS 438.250 is amended to read as follows:

<< KY ST § 438.250 >>

(1) When a public servant, as defined in KRS 521.010, or victim of a crime is bitten by, suffers a puncture wound caused by, or is exposed to the blood or body fluids of a criminal defendant, inmate, parolee, or probationer or the blood or body fluids of a criminal defendant, inmate, parolee, or probationer have come into contact with the skin or unprotected clothing of a public servant during any incident in which the public servant and the criminal defendant, inmate, parolee, or probationer are involved, the criminal defendant, inmate, parolee, or probationer shall be ordered to submit to testing of the blood for human immunodeficiency virus (HIV)<<+, hepatitis A, B, and C, and tuberculosis+>>.

(2) The written results of the testing shall be made available to each public servant, criminal defendant, inmate, parolee, or probationer coming within the purview of subsection (1). However, the results shall not be public records and shall be disclosed to others only on a need-to-know basis.

(3) If a criminal defendant, inmate, parolee, or probationer fails or refuses to be tested as ordered, he may be held in criminal contempt. A Circuit or District Judge shall compel the criminal defendant, inmate, parolee, or probationer to undergo the testing required herein if he fails or refuses to do so. Undergoing compulsory testing after a failure or refusal to be tested shall not relieve the criminal defendant, inmate, parolee, or probationer of the liability imposed by this subsection.

(4) The costs of the testing shall be borne by the criminal defendant, inmate, parolee, or probationer unless he is determined unable to pay for the test by a court of competent jurisdiction for criminal defendants and probationers and by the Department of Corrections pursuant to their indigency standards for inmates and parolees, in which case the Commonwealth shall pay for the testing.

(5) The provisions of subsections (1) to (4) of this section shall apply to juveniles falling within any category specified in subsections (1) to (4) of this section as well as to adults.

SECTION 123. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

<<+(1) A person is guilty of disarming a peace officer when he intentionally:+>>

<<+(a) Removes a firearm or other deadly weapon from the person of a peace officer when the peace officer is acting within the scope of his official duties; or+>>

<<+(b) Deprives a peace officer of the officer's use of a firearm or deadly weapon when the peace officer is acting within the scope of his official duties.+>>

<<+(2) Disarming a peace officer is a Class D felony.+>>

<<+(3) The provisions of this section shall not apply when:+>>

<<+(a) The defendant does not know or could not reasonably have known that the person disarmed was a peace officer; or+>>

<<+(b) The peace officer was, at the time of the disarming or incident thereto, engaged in felonious conduct.+>>

SECTION 124. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

<<+(1) Subject to the duty to return confiscated firearms to innocent owners pursuant to Section 127 of this Act, all firearms confiscated by the Kentucky State Police and not retained for official use pursuant to Section 127 of this Act shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearm sold. The Kentucky State Police shall transfer firearms that are to be sold to the Department of Finance, Division of Surplus Property, for sale. Proceeds of the sale shall be transferred to the account of the Department for Local Government for use as provided in subsection (2) of this section. Prior to the sale of any firearm, the Kentucky State Police shall make an attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law.+>>

<<+(2) The proceeds of firearms sales shall be utilized by the Department for Local Government to provide grants to city, county, charter county, and urban-county police and sheriff's departments for the purchase of body armor for sworn peace officers of those departments. Body armor purchased by the department receiving grant funds shall meet or exceed the standards issued by the National Institute of Justice for body armor. No police or sheriff's department shall apply for a grant to replace existing body armor unless that body armor has been in actual use for a period of five (5) years or longer.+>>

Section 125. KRS 16.210 is amended to read as follows:

<< KY ST § 16.210 >>

(1) Property taken by the Kentucky State Police shall be placed with the property officer of the post to which the officer is assigned.

(2) Property which is forfeited may be disposed of as provided by KRS 500.090; however, the proceeds of any sale shall go to the state <<+or be distributed as otherwise provided by law+>>.

(3) All other property may be disposed of as provided in KRS 67.592 and 67.594 except that all proceeds from any sale shall go to the state.

Section 126. KRS 237.090 is amended to read as follows:

<< KY ST § 237.090 >>

Any firearm or ammunition forfeited pursuant to KRS 237.060 to 237.090 shall, upon order of a court of competent jurisdiction, be <<+disposed of+>><<- destroyed, sold,->> or retained as provided in KRS 500.090.

Section 127. KRS 500.090 is amended to read as follows:

<< KY ST § 500.090 >>

(1) All property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.

(a) Property <<+other than firearms+>> which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.

(b) Property <<+other than firearms+>> which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to:

1. The state if the property was seized by an agency of the state or peace officer thereof;

2. The county, if the property was seized by the sheriff or an agency or peace officer of the county;

3. The Department of Fish and Wildlife Resources, if the property was seized by a peace officer of the Department of Fish and Wildlife or was seized by any other officer for violation of KRS Chapter 150;

4. The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to

the city property clerk;

5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds) if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or

6. The state, if the property was seized by any combination of agencies listed above.

(c) <<+Subject to the duty to return confiscated firearms to innocent owners pursuant to this section, all firearms confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms coming into the custody of a state or local law enforcement agency and not retained for official use shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearms sold. Prior to the sale of any firearm, the law enforcement agency shall make a bona fide attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms shall not apply to firearms auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms of the type auctioned.+>>

<<+(d) Proceeds from firearms sales shall be utilized by the law enforcement agency for the purchase of body armor meeting National Institute of Justice Standards for sworn officers of the law enforcement agency or for the purchase of firearms, ammunition, or range facilities, or a combination thereof, by the law enforcement agency. This subsection shall not apply to the Department of Fish and Wildlife.+>>

<<+(e)+>> If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.

<<+(f)+>><<-(d)->> Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official use in the following manner. Property which has been seized by an agency of the state may be retained for official state use. Property which has been seized by an agency of county, city, or urban-county government may be retained for official use by the government whose agency seized the property or for official state use. Property seized by any other unit of government may be retained only for official state use. The expenses for keeping and transferring such property shall be paid by the unit of government by which the property is retained.

(2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of the state. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.

(3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section.

(4) The trial court shall remit the forfeiture of property when the lawful claimant:

(a) Asserts his claim before disposition of the property pursuant to this section;

(b) Establishes his legal interest in the property; and

(c) Establishes that the unlawful use of the property was without his knowledge and consent. Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1)(b) of this section.

(5) For purposes of this section, "lawful claimant" means owner or lienholder of record.

(6) Before property which has had its identity obscured in violation of KRS 514.120 may be sold or retained for official use as provided in this section, the court shall cause a serial or other identifying number to be placed thereon and a record of the number assigned shall be placed in the court order authorizing the sale or retention of the property. This number shall be assigned, whenever applicable, in consultation with the Kentucky State Police and any other state or federal regulatory agency. The purchaser of the property shall be given a document stating that the property had been forfeited pursuant to law and that a number, shown on the document, has been assigned which shall be deemed as compliance of the owner with KRS 514.120. When property is returned to an owner pursuant to this section and its identity has been obscured by another person in violation of KRS 514.120 the court shall provide a document to the owner relieving him of liability for its continued possession. This document shall serve as evidence of compliance with KRS 514.120 by the owner or any person to whom he lawfully disposes of the property. This section shall not apply to any person after property has been sold or returned in compliance with this section, who violates the provisions of KRS 514.120 with respect to that property.

(7) Before forfeiture of any property under this section it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made, or may, in lieu thereof, order the return of the property to the lawful owner or claimant.

If the lawful owner or claimant does not assert his claim to the property after notification or if he renounces his claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs.

SECTION 128. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

<<+(1) When a police department, sheriff's department, or other agency of city, county, urban-county, or charter county government or other unit of local government disposes of firearms or ammunition owned by that unit of local government, the disposition shall be by:++>>

<<+(a) Public auction to persons eligible under federal law to purchase the type of firearm or ammunition being offered for sale;++>>

<<+(b) Trade to the federally licensed firearms dealer providing new firearms or ammunition to the agency; or++>>

<<+(c) Transfer to another government agency or government-operated museum in Kentucky for official use or display.++>>

<<+(2) If the firearms or ammunition are sold, the proceeds of the sale shall be utilized solely for the purchase of body armor meeting or exceeding National Institute of Justice standards, firearms, ammunition, or range facilities, or a combination thereof, by the agency of government.++>>

SECTION 129. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

<<+(1) When an agency of Kentucky state government disposes of firearms or ammunition owned by that agency, the disposition shall be by:++>>

<<+(a) Public auction to persons who are eligible under federal law to purchase the type of firearm or ammunition;++>>

<<+(b) Trade to the federally licensed firearms dealer providing new firearms or ammunition to the agency;++>>

<<+(c) Transfer to another government agency or government-operated museum in Kentucky for official use or display; or++>>

<<+(d) Sale to a retiring employee as authorized by law.++>>

<<+(2) If the firearms or ammunition are sold, the proceeds of the sale shall be utilized solely for the purchase of body armor meeting or exceeding National Institute of Justice standards, firearms, ammunition, or range facilities, or a combination thereof, by the agency of government. The provisions of this subsection shall not apply to the Department of Fish and Wildlife.++>>

Section 130. KRS 95.435 is amended to read as follows:

<< KY ST § 95.435 >>

(1) The police department in cities of the second class, and urban-county government shall take charge of property, within their jurisdiction, alleged to be or suspected of being the proceeds of crime, property taken from the person of a prisoner, lost or abandoned property taken into the custody of any member of the police force or criminal court, and property taken from persons supposed to be insane, intoxicated or otherwise incapable of taking care of themselves. The officer or court having custody of such property shall as soon as practicable deliver it into the custody of the police department.

(2) All such property shall be particularly described and registered by the police department in a book kept for that purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom taken, with the general circumstances, the date of its receipt, the name of the officer recovering the property, the names of all claimants thereto, and any final disposition of the property. The police department shall advertise the property pursuant to KRS Chapter 424 for the information of the public as to the amount and disposition of the property.

(3) If any property in the custody of the police department is desired as evidence in any criminal court, such property shall be delivered to any officer who presents an order to that effect from the court. Such property shall not be retained in the court, but shall be returned to the police department.

(4) All property <<+except firearms+>> that remains in the custody of the police department for three (3) months, without any lawful claimant thereto, may be sold at public auction in a suitable room designated for that purpose, after having been advertised pursuant to KRS Chapter 424. The proceeds of such sales shall be paid into the police and firefighters' pension fund of said city or urban-county government. <<+Firearms shall be disposed of as provided by KRS 500.090.++>>

SECTION 131. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

<<+(1) The administrator for each facility operated by the Department of Corrections or under contract to the department is encouraged to work with local religious leaders to provide a voluntary chaplain program.++>>

<<+(2) An inmate shall be allowed at least one (1) visit per week by a minister, priest, or rabbi of the inmate's choice.++>>

SECTION 132. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

<<+(1) Each local jailer is encouraged to work with local religious leaders to provide a voluntary chaplain program.++>>

<<+(2) An inmate shall be allowed at least one (1) visit per week by a minister, priest, or rabbi of the inmate's choice.++>>

SECTION 133. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

<<+Subject to restrictions for violations of rules, any inmate of a facility operated by or under contract to the department who requests religious publications or other religious instructional materials may receive them provided:+>>

<<+(1) They have been purchased by or donated to the inmate; or+>>

<<+(2) Donated to the institution for use by inmates; and+>>

<<+(3) Do not constitute a threat to the security of the institution.+>>

SECTION 134. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

<<+Subject to restrictions for violations of rules, an inmate of a facility operated by or under contract to a local jail who requests religious publications or other religious instructional materials may receive them provided:+>>

<<+(1) They have been purchased by or donated to the inmate; or+>>

<<+(2) Donated to the institution for use by inmates; and+>>

<<+(3) Do not constitute a threat to the security of the institution.+>>

SECTION 135. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

<<+(1) Each facility operated by the Department of Corrections or under contract to the department shall maintain reports of all grievances by inmates during a calendar year. A grievance report shall be an open public record and made available to any person who requests to see the file at the site as long as the inmate has signed a waiver of confidentiality.+>>

<<+(2) Each grievance report shall contain the date the grievance was filed, the nature of the grievance, the name of the individual filing the grievance as well as the name of the person preparing the report, the residence, the county, actions taken by the facility, and the date the report was filed. The report shall be signed by an administrator or officer of the facility.+>>

<<+(3) With the written permission of the inmate, a photo copy of the file may be made and the content may be released to the public. The facility may require a ten cent (\$0.10) per page copying fee.+>>

<<+(4) All grievance reports may be destroyed after December 31 of the following year.+>>

Section 136. KRS 237.110 is amended to read as follows:

<< KY ST § 237.110 >>

(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. Licenses shall be valid throughout the state for a period of three (3) 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 shall issue a license if the applicant:

(a) Is a resident of the state and has been a resident 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(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 any one (1) of the following:

1. Completion, prior to, on, or after October 1, 1996, of any hunter education and firearms safety course approved by the Department of Fish and Wildlife or a similar agency of another state. The Department of Fish and Wildlife may impose additional qualifications by promulgation of administrative regulations to meet the requirements of this section and may establish fees as may be required, so as to avoid a diversion of Fish and Game funds as specified in 50 C.F.R. Part 80. Any fee assessed shall be reasonable and shall not exceed the actual cost of administering the program;

2. Completion, prior to, on, or after October 1, 1996, of any law enforcement firearms safety or training course or class offered for special local peace officers or special law enforcement officers conducted or approved by the Department of Criminal Justice Training;

3. Completion, prior to, on, or after October 1, 1996, of any firearm safety or training course or class available to the general

public offered by law enforcement, junior college, college, or private or public institution or organization or firearms training school, utilizing instructors certified by the Department of Criminal Justice Training; or

4. Completion, prior to, on, or after October 1, 1996, of any firearms training or safety course or class conducted by a state-certified firearms instructor or an instructor holding a certification as a firearms instructor issued by a state or federal agency.

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, Department of State Police, and any other state agency with the authority to certify firearms instructors, shall promulgate uniform administrative regulations concerning the certification and de-certification 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 retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System 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 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 retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System shall be exempt from paying the application or renewal fees following the date of his retirement. 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.

(5) 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 (4) 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.

(6) The Department of State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection (5) 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.

(7) 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.

(8) 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.

(9) 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.

(10) 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.

(11) 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. 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 (4), (5), and (6) of this section.

(12) 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, except that nothing in this section shall preclude a judge from carrying a concealed weapon;

(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;

(h) Any church, synagogue, house of worship, or other property owned, leased, or otherwise used and operated by a religious organization in the furtherance of a religious purpose; or

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

(13) 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 in a vehicle on the premises shall not be a criminal offense so long as the weapons are not removed from the vehicle or brandished while the vehicle is on the premises. <<+A private but not a public+>><<-An->> employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons 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 in vehicles owned by the employee<<+, except that the Justice Cabinet may prohibit an employee from carrying any weapons, other than the weapons 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 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.

(14) 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.

(15) 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.

(16) (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 and whose state grants to Kentucky residents the right to carry a concealed deadly weapon in the state of the licensee without requiring a separate license to carry a concealed deadly weapon issued by 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) A person who holds a valid license issued by another state of the United States whose home state permits Kentucky residents to obtain a license to carry a concealed deadly weapon in that state may apply directly to the Department of State Police for a license to carry concealed deadly weapons in Kentucky. The Department of State Police shall take whatever steps are necessary to verify that the person applying has a valid license to carry a concealed deadly weapon issued by his home state.

(17) 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.

Section 137. KRS 61.365 is amended to read as follows:

<< KY ST § 61.365 >>

The following persons who are employed by the federal government as law enforcement or investigative officers who have the power of arrest and who are residents of the Commonwealth of Kentucky shall be deemed peace officers and shall have the same powers and duties of any other peace officer in the Commonwealth, except that they shall not be required to serve process unless permitted to do so by their respective agencies:

- (1) Federal Bureau of Investigation special agents;
- (2) United States Secret Service special agents;
- (3) United States Marshal's service deputies;
- (4) Drug Enforcement Administration special agents;
- (5) Bureau of Alcohol, Tobacco, and Firearms special agents;
- (6) United States Forest Service special agents and law enforcement officers<<+;+>>

<<+(7) Special agents and law enforcement officers of the Office of the Inspector General of the United States Department of Agriculture+>>.

Section 138. KRS 17.510 is amended to read as follows:

<< KY ST § 17.510 >>

(1) The cabinet shall develop and implement a sex offender registration system which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.

(2) <<-Beginning January 1, 1995, ->>Any person eighteen (18) years of age or older at the time of the offense <<+or any youthful offender+>> who <<+has committed or attempted+>><<-is released on probation, shock probation, conditional discharge by the court, parole, or a final discharge from a penal institution for committing or attempting->> to commit a sex crime shall, within <<+ten (10)+>><<-fourteen (14)->> days after his release, <<+by the court, the parole board, or the cabinet,+>> register with the <<+appropriate+>> local probation and parole office in the county in which he resides.

(3) <<-Beginning January 1, 1995, ->>Any person <<+required to register pursuant to subsection (2) of this section+>><<-who is discharged, paroled, or released on shock probation from a jail, prison, or other institution where he was confined because of the commission or attempt to commit a sex crime->> shall<<-, prior to discharge, parole, or release,->> be informed of the duty to register under this section by the <<+court at the time of sentencing and by the+>> official in charge of the place of confinement <<+upon release+>>. The <<+court and the+>> official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained to the person. The <<+court and the+>> official in charge of the place of confinement shall require the releasee to complete the <<+ acknowledgment+>><<-registration->> form <<+and the court or the official shall retain the original completed form+>>. The official shall then send the form to the Information Services Center, Kentucky State Police, Frankfort, Kentucky.

(4) <<+The court or the official shall order the person to register with the appropriate local probation and parole office.+>>
<<+(5)+>> <<-Beginning January 1, 1995, any person who is sentenced in this state pursuant to a guilty plea or a jury verdict of conviction of the commission or attempt to commit a sex crime and who is released on probation or conditional discharge shall prior to release or discharge be informed by the court in which the person has been convicted of the duty to register with the local probation and parole office in the county in which he resides. The court shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained and order the person to register with the local probation and parole office. Upon completion of the registration form, ->>The <<+ appropriate+>> probation and parole office shall send the form to the Information Services Center, Kentucky State Police, Frankfort, Kentucky.

<<+(6)+>><<-(5) Beginning January 1, 1995, ->>Any person who has pled guilty or been convicted in <<+a court of+>> another state<<+, of a court of the United States, or a court martial of the United States Armed Forces+>> of the commission or attempt to commit a sex crime<<- and who remains under active probation or parole supervision at the time of his relocation to Kentucky->> shall be informed <<+at the time of his relocation to Kentucky+>> of the duty to register under this section by the interstate compact officer of the Department of Corrections <<+or the Department of Juvenile Justice+>>. The officer shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained. The officer shall <<+order+>><<-require->> the person to complete the registration form. The officer shall then send the form to the Information Services Center, Kentucky State Police,

Frankfort, Kentucky.

<<+(7) If a person is required to register as a sex offender under federal law or the laws of another state or territory, or if the person has been convicted of an offense under the laws of another state or territory that would require registration under this section if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.+>>

<<+(8)+>><<-(6)->> The registration form shall be a written statement signed by the person which shall include sex offender information.

<<+(9) For purposes of this section, and Sections 140 to 155 of this Act, a post office box number shall not be considered an address.+>>

<<+(10)+>><<-(7)->> If the residence address of any registrant changes, the person shall register, within <<+ten (10)+>><<-(fourteen (14))->> days of the change of address, with the <<+appropriate+>> local probation and parole office in the county of his new residence. The <<+ appropriate+>> local probation and parole office shall send this information to the Information Services Center, Kentucky State Police, Frankfort, Kentucky.

<<+(11)+>><<-(8)->> Any person required to register under this section who violates any of the provisions of this section is guilty of a Class A misdemeanor.

<<+(12)+>><<-(9)->> Any person required to register under this section who knowingly provides false, misleading, or incomplete information is guilty of a Class A misdemeanor.

<<+(13)+>><<-(10)->> The appropriate court, parole authority, or corrections agency shall be immediately notified to consider revocation of the parole, probation, or conditional discharge of any person released under its authority who has failed to register within the prescribed time period as required by this section.

<<+(14)+>><<-(11)->> The statement required by subsection <<+ (6)+>><<-(5)->> of this section shall not be open to inspection by the public and may only be accessible to law enforcement agencies.

<<+(15)+>><<-(12)->> Any person who disseminates, receives, or otherwise uses or attempts to use information in the registry database, knowing the dissemination, receipt, or use is for a purpose other than authorized by law, shall be guilty of a Class A misdemeanor.

Section 139. KRS 17.520 is amended to read as follows:

<< KY ST § 17.520 >>

<<+(1) Persons classified as high risk sex offenders as provided by subsection (3) of Section 140 of this Act shall remain registered for the lifetime of the offender, unless redesignated pursuant to Section 154 of this Act.+>>

<<+(2)+>> Persons <<+classified as low or moderate risk sex offenders+>><<-(required to register pursuant to the provisions of KRS 17.510->> shall remain registered for a period of ten (10) years following their discharge from confinement or ten (10) years following their maximum discharge date on probation, shock probation, conditional discharge, parole, or other form of early release, whichever period is greater.

<<+(3) If a sex offender is re-incarcerated for another offense or as the result of having violated the terms of probation parole, or conditional discharge the registration requirements are tolled during the subsequent incarceration.+>>

SECTION 140. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+As used in Sections 140 to 155 of this Act, the following definitions shall apply:+>>

<<+(1) "The board" means the Sex Offender Risk Assessment Advisory Board created under Section 142 of this Act;+>>

<<+(2) "Sex offender" means a person who has been convicted of a sex crime as defined in KRS 17.500 who suffers from a mental or behavioral abnormality or personality disorder characterized by a pattern or repetitive, compulsive behavior that makes the offender a threat to public safety;+>>

<<+(3) "High risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a high risk of recommitting a sex crime. This term means the same as a sexually violent predator as defined by 42 U.S.C. sec. 14071. A person determined to be a sexually violent predator in a federal jurisdiction or in another state will be classified as a high risk sex offender for the purpose of this section;+>>

<<+(4) "Moderate risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk

Advisory Board that have been demonstrated to correlate with a moderate risk of recommitting a sex crime;+>>

<<+(5) "Low risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a low risk of recommitting a sex crime;+>>

<<+(6) "Mental or behavioral abnormality" means a congenital or acquired condition that affects the emotional or volitional capacity of a person in a manner that predisposes that individual to the commission of a sex crime;+>>

<<+(7) "Personality disorder" means a condition where a person exhibits personality traits which are inflexible and maladaptive and cause either significant functional impairment or subjective distress;+>>

<<+(8) "Certified provider" means a mental health professional certified by the Sex Offender Risk Assessment Advisory Board to conduct sexual offender risk assessments pursuant to Sections 140 to 155 of this Act, or presentence assessment pursuant to KRS 532.050 or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045; and+>>

<<+(9) "Victim" means victim as defined by KRS 421.500.+>>

SECTION 141. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+No person shall conduct sexual offender risk assessments pursuant to Sections 140 to 155 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045, without first obtaining a certification from the Sex Offender Risk Assessment Advisory Board.+>>

SECTION 142. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+(1) A Sex Offender Risk Assessment Advisory Board is hereby created. The board shall certify providers who shall conduct sexual offender risk assessments pursuant to Sections 140 to 155 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045.+>>

<<+(2) The board shall develop a risk assessment procedure that shall be used by certified providers in assessing the risk of recommitting a sex crime by a sex offender and the threat posed to public safety. The procedure shall be based upon, but not limited to the following factors:+>>

<<+(a) Criminal history;+>>

<<+(b) Nature of the offense;+>>

<<+(c) Conditions of release that minimize risk;+>>

<<+(d) Physical conditions that minimize risk;+>>

<<+(e) Psychological or psychiatric profiles;+>>

<<+(f) Recent behavior that indicates an increased risk of recommitting a sex crime;+>>

<<+(g) Recent threats or gestures against persons or expressions of an intent to commit additional offenses; and+>>

<<+(h) Review of the victim impact statement.+>>

SECTION 143. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+The board shall consist of the members named in subsections (1) and (2) of this section:+>>

<<+(1) (a) The commissioner of the Department of Corrections, or the commissioner's designee;+>>

<<+(b) The commissioner of the Department of Juvenile Justice, or the commissioner's designee;+>>

<<+(c) The program administrator of the Sex Offender Treatment Program created pursuant to KRS 197.400; and+>>

<<+(d) The commissioner of the Department for Mental Health and Mental Retardation Services, or the commissioner's designee.+>>

<<+(2) The following members, appointed by the Governor:+>>

<<+(a) One (1) probation and parole officer;+>>

<<+(b) Four (4) mental health professionals licensed or certified pursuant to KRS Chapter 309, 311, 314, 319, or 335 who demonstrated expertise in working with sex offenders;+>>

<<+(c) One (1) professional working in an agency which provides services to adult or child victims of sex offenses; and+>>

<<+(d) One (1) representative of an advocacy group with a demonstrated interest in the welfare of victims of sex offenses.+>>

<<+(3) The Governor shall appoint the first chair of the board who shall serve for a term of two (2) years after which the chair shall be elected by the members of the board.+>>

<<+(4) The probation and parole officer and the members identified in subsection (2) of this section shall serve for the remainder of the term of office of the Governor during whose incumbency they were appointed, unless removed sooner for cause, but they shall remain on the board until their successors are appointed or until they are reappointed.+>>

<<+(5) No member appointed pursuant to subsection (4) of this section may be represented by a designee.+>>

<<+(6) No member appointed pursuant to subsection (4) of this section shall serve more than four (4) years unless reappointed.+>>

<<+(7) All members identified under subsection (1) of this section shall serve during their terms of office.+>>

<<+(8) All members of the board shall be reimbursed for their necessary travel and other expenses actually incurred in the discharge of their duties on the board.+>>

<<+(9) The board shall be empowered to create committees for the purpose of carrying out its statutory duties.+>>

<<+(10) The board shall be attached to the Department of Corrections for administrative purposes.+>>

SECTION 144. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+(1) The board may issue, refuse to issue, reissue, or renew a provider certificate, or may probate, suspend, or revoke the certificate of a provider who conducts sexual offender assessments.+>>

<<+(2) The board shall revoke the certificate of a provider who conducts sexual offender assessments while his certification is suspended.+>>

SECTION 145. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+(1) Prior to the refusal to issue, renew, probate, suspend, or revoke the certificate of a provider, the board shall conduct a hearing in accordance with the provisions of this chapter and KRS Chapter 13B.+>>

<<+(a) The hearing may be conducted by a hearing officer;+>>

<<+(b) The hearing officer may only issue a recommended order, and the recommended order shall be subject to review by a majority of the full board, which shall issue a final order.+>>

<<+(2) The board may proceed against a certified provider on its own initiative, on the basis of either information contained in its own records, or information obtained through its informal investigation.+>>

<<+(3) If a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization containing allegations that if true would warrant action, the board may proceed against the certified provider.+>>

<<+(4) Any final order of the board may be appealed to the Franklin Circuit Court in accordance with KRS Chapter 13B.+>>

SECTION 146. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

<<+A quorum of the board shall consist of at least six (6) members. The concurring votes of five (5) members shall be considered as the action of the board, except in the case of revoking a certificate, in which case the concurring votes of at least seven (7) members shall be required.+>>

SECTION 147. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+(1) The board may promulgate all reasonable administrative regulations not inconsistent with this chapter that are necessary to carry into effect the purposes of Sections 140 to 155 of this Act.+>>

<<+(2) The board may promulgate administrative regulations requiring mandatory continuing education for certified providers to continue conducting sexual offender risk assessments pursuant to Sections 140 to 155 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045, as a condition for obtaining their renewal certificates.+>>

SECTION 148. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+Only persons certified under Sections 140 to 155 of this Act may be known as certified providers in the Commonwealth of Kentucky, or use any words or letters or assume any titles or description tending to convey the impression that they are certified providers who conduct sexual offender risk assessments pursuant to Sections 140 to 155 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045.+>>

SECTION 149. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+Whenever in the judgment of the board any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, a violation of Sections 140 to 155 of this Act, the board may apply to the Franklin Circuit Court for an order enjoining these acts or practices.+>>

<<+(1) Upon a showing by the board that a person has engaged, or is about to engage, in any of these acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.+>>

<<+(2) Any order of the Franklin Circuit Court shall be enforceable and shall be valid anywhere in this state and the order of the court shall be reviewable as provided in the Rules of Civil Procedure in the case of other injunctions and restraining orders.+>>

SECTION 150. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+(1) Upon conviction of a "sex crime" as defined in KRS 17.500, and within sixty (60) calendar days prior to the discharge, release, or parole of a sex offender, the sentencing court shall order a sex offender risk assessment by a certified provider for the following purposes:+>>

<<+(a) To determine whether the offender should be classified as a high, moderate or low risk sex offender;+>>

<<+(b) To designate the length of time a sex offender shall register pursuant to KRS 17.500 to 17.540; and+>>

<<+(c) To designate the type of community notification that shall be provided upon the release of the sex offender pursuant to KRS 17.500 to 17.540.+>>

<<+(2) The sex offender shall pay for any assessment required pursuant to Sections 140 to 155 of this Act up to the offender's ability to pay, but not more than the actual cost of the assessment.+>>

<<+(3) In making the determination of risk, the sentencing court shall review the recommendations of the certified provider along with any statement by a victim or victims and any materials submitted by the sex offender.+>>

<<+(4) The court shall conduct a hearing in accordance with the Rules of Criminal Procedure and shall allow the sex offender to appear and be heard.+>>

<<+(5) The court shall inform the sex offender of the right to have counsel appointed in accordance with KRS 31.070 and KRS 31.110.+>>

<<+(6) The sentencing court shall issue findings of fact and conclusions of law and enter an order designating the level of risk.+>>

<<+(7) The order designating risk shall be subject to appeal.+>>

<<+(8) Upon release, either by probation, conditional discharge, parole, or serve-out, the sentencing court or the official in charge of the place of commitment shall forward the risk determination that the sentencing court has issued for that sex offender to the sheriff of the county to which the offender is to be released.+>>

SECTION 151. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+(1) If the offender is determined to be a high risk sex offender, the notification shall include offender information as defined in KRS 17.500 and any special conditions imposed by the court or the Parole Board. The Social Security number of the offender shall not be released to those persons identified in paragraphs (c), (d), and (f) of this subsection. The following individuals shall be notified by the sheriff of the county to which the offender is to be released:+>>

<<+(a) The law enforcement agency having jurisdiction;+>>

<<+(b) The law enforcement agency having had jurisdiction at the time of the offender's conviction;+>>

<<+(c) Victims who have requested to be notified;+>>

<<+(d) The Information Services Center, Kentucky State Police;+>>

<<+(e) Any agency, organization, or group serving individuals who have similar characteristics to the previous victims of the offender, if the agency, organization, or group has filed a request for notification with the local sheriff; and+>>

<<+(f) The general public through statewide media outlets and by any other means as technology becomes available.+>>

<<+(2) Upon a finding by the sentencing court that the offender is a high risk sexual offender, the designation shall continue until the sentencing court determines that the individual is no longer a high risk sex offender.+>>

<<+(3) An offender who has been designated by the sentencing court to be a high risk sex offender shall upon his release by the court, parole board, or the cabinet, be required to register for his lifetime in accordance with the provisions of KRS 17.510 and shall be subject to community notification pursuant to this section and Section 152 of this Act.+>>

<<+(4) If the offender is determined to be a moderate risk sex offender, the notification shall include offender information as defined under KRS 17.500, the zip code in which the offender resides, and any special conditions imposed by the court or the Parole Board. The Social Security number, personal residential address, and vehicle registration shall not be disclosed to the individuals identified in paragraphs (c) and (e) of this subsection. The following individuals shall be notified by the sheriff of the county to which the offender is released:+>>

<<+(a) The law enforcement agency having jurisdiction;+>>

<<+(b) The law enforcement agency having had jurisdiction at the time of the offender's conviction;+>>

<<+(c) Victims who have requested to be notified;+>>

<<+(d) The Information Services Center, Kentucky State Police; and+>>

<<+(e) Any agency, organization, or group serving individuals who have similar characteristics to the previous victim or victims of the sexual offender, if the agency, organization, or group has filed a request for notification with the local sheriff.+>>

<<+(5) If the offender is determined to be a low risk sex offender, the notification shall include offender information as defined in KRS 17.500. The Social Security number, personal residential address, and vehicle registration shall not be disclosed to the persons identified in paragraph (c) of this subsection. The following individuals shall be notified by the sheriff of the county to which the offender is released:+>>

<<+(a) The law enforcement agency having jurisdiction;+>>

<<+(b) The law enforcement agency having had jurisdiction at the time of the offender's conviction;+>>

<<+(c) Victims who have requested to be notified, and+>>

<<+(d) The Information Services Center, Kentucky State Police.+>>

SECTION 152. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+(1) Any statutes to the contrary notwithstanding, all state or local detention or correctional facilities, hospitals, or institutions shall forward all relevant information pertaining to a sex offender to be discharged, paroled, or released to the certified provider for review prior to the release or discharge for consideration in making recommendations to the sentencing

court. The relevant information shall include but is not limited to:++>>

<<+(a) The institutional record;+>>

<<+(b) The medical record including all psychological records; and+>>

<<+(c) The treatment record.+>>

<<+(2) All confidential records provided pursuant to this section shall remain confidential, unless otherwise ordered by a court, or by another person duly authorized to release the information.+>>

SECTION 153. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+Communications made in the course of sexual offender risk assessments pursuant to Sections 140 to 155 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, or KRS 532.045 to the certified provider and any employee of the certified provider who is assigned to assist in the assessments, shall be privileged from disclosure in any civil or criminal proceeding, unless the offender consents in writing to the disclosure or the communication is related to an ongoing criminal investigation. The sexual offender shall be informed in writing of the limits of the privilege created in this section.+>>

SECTION 154. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+(1) A person designated a "high risk sex offender" and who is required to register for his lifetime pursuant to the provisions of this chapter may be relieved of any further duty to register upon the grant of a petition for relief by the sentencing court entered no earlier than ten (10) years after the date of discharge from probation, parole, or release from incarceration, whichever is most recent. If the petition is denied, the person may petition for relief from the high risk designation every five (5) years thereafter.+>>

<<+(2) Upon receipt of the petition for relief, the sentencing court shall request an updated assessment to a certified provider.+>>

<<+(3) The sentencing court shall conduct a second hearing as provided in Section 150 of this Act.+>>

SECTION 155. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

<<+Any person who violates Section 141 of this Act shall be fined not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) and said fine shall be paid to the Crime Victim Compensation Fund as established in KRS Chapter 346.+>>

SECTION 156. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

<<+As used in Sections 157 and 158 of this Act:+>>

<<+(1) "Condemned person" means a person for whom a specific day of execution is fixed by a mandate from the Kentucky Supreme Court or a warrant signed by the Governor.+>>

<<+(2) "Insane" means the condemned person does not have the ability to understand:+>>

<<+(a) That the person is about to be executed; and+>>

<<+(b) Why the person is to be executed.+>>

Section 157. KRS 431.240 is amended to read as follows:

<< KY ST § 431.240 >>

(1) Unless the execution is stayed by due process of law or under authority of subsection (2) of this section, the warden of the penitentiary or his deputy shall proceed, on the day and at the place named in the judgment of conviction, to cause the condemned person to be electrocuted. The execution shall take place before sunrise on the day designated in the judgment.

(2) If the condemned person is insane<<+, as defined in Section 156 of this Act+>> or pregnant with child on the day designated for the execution, the execution shall be suspended until the condemned is restored to sanity or is delivered of child. The execution shall then take place under the warrant of the Governor and at the time designated by him, unless stayed by due process of law. If execution is suspended on the ground of insanity, the commissioner of the Department of Corrections <<+shall+>><<-may->> transfer the condemned person to the <<+Kentucky Correctional Psychiatric Center+>><<- state forensic psychiatric facility operated by the Department of Corrections->> until the time he is restored to sanity. Any administrative hearings authorized under authority of this section shall be conducted in accordance with KRS Chapter 13B.

(3) If the condemned person escapes from custody and is recaptured after the expiration of the date fixed for the execution, the Governor, upon receiving written notice of the recapture from the warden of the penitentiary, shall send his warrant of execution to the warden by special messenger and shall name therein the day of execution. The warden shall then proceed to the execution thereof according to the provisions of KRS 431.215 to 431.270.

(4) When a judgment of death has not been executed on the day appointed therefor by the court, from any cause, the Governor, by a warrant under his hand and the seal of the Commonwealth, shall fix the day of the execution, which warrant shall be obeyed by the warden of the penitentiary.

SECTION 158. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

<<+This section shall provide the exclusive procedure for challenging a condemned person's sanity, unless the Supreme Court of Kentucky expressly adopts a rule of court providing otherwise.+>>

<<+(1) A condemned person or the person's attorney may file a motion for stay of execution on the grounds that the condemned person is insane. The motion shall be filed in the Circuit Court of the county where the condemned person is incarcerated, or the county in which the condemned person was convicted, and shall be supported by at least two (2) affidavits. The Attorney General shall file a response within the time ordered by the court.+>>

<<+(2) Upon receiving a motion under subsection (1) of this section, the court shall order the condemned person to be evaluated by at least two (2) licensed mental health professionals and shall order the mental health professionals to submit their written evaluation to the court within ten (10) days of the evaluation. The court shall then schedule and conduct a hearing as soon as possible to determine whether the condemned person is insane.+>>

<<+(3) The court shall base its determination of insanity on a preponderance of the evidence. The court's determination may be appealed to the Supreme Court by the condemned person or the Attorney General.+>>

<<+(4) If the condemned person is determined to be insane, he or she shall be committed to the Kentucky Correctional Psychiatric Center. The treating psychiatrist shall then report, once each month or more frequently if the court orders, to the court and the condemned person's counsel on the progress the condemned person has made and whether there is a substantial probability that the person will become sane. If at any time a psychiatrist treating or evaluating the person determines the person to be sane, the psychiatrist shall immediately report that fact to the court.+>>

<<+(5) Upon receiving a report that a condemned person has become sane, the court shall schedule an evaluation and conduct a hearing in accordance with subsections (2) and (3) of this section to determine sanity. The court's determination may be appealed to the Supreme Court by the condemned person or the Attorney General.+>>

Section 159. KRS 24A.175 is amended to read as follows:

<< KY ST § 24A.175 >>

(1) Court costs for a criminal case in the District Court shall be:

- | | | |
|-----|---|---------|
| (a) | For an offense for which prepayment is permitted under KRS 189.394, 431.451, or 431.452 and for which prepayment has been made prior to trial as required by law..... | \$42.00 |
| (b) | For an offense for which prepayment is not permitted or has not been made | \$67.00 |

(a) For an offense for which prepayment is permitted under KRS 189.394, 431.451, or 431.452 and for which prepayment has been made prior to trial as required by law \$42.00

(b) For an offense for which prepayment is not permitted or has not been made \$67.00

<<+(c) Court costs designated in paragraph (b) of this subsection shall include the fee mandated by KRS 346.185.+>>

(2) There shall be no court costs for a parking citation when:

(a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and

(b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3) Additional costs shall be assessed in District Court criminal matters as follows:

- | | | |
|-----|--|--------|
| (a) | Preparing an attestation | \$0.50 |
| (b) | Preparing a certification | \$1.00 |
| (c) | Preparing a copy of a document (per page)..... | \$0.25 |

- (a) Preparing an attestation \$0.50
- (b) Preparing a certification \$1.00
- (c) Preparing a copy of a document (per page) .. \$0.25
- (4) Taxation of costs against a defendant, upon conviction, including persons sentenced to state traffic school as provided under KRS 186.574, shall be mandatory and shall not be probated or suspended.
- (5) The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars (\$5) from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners and shall include among his reports to the Administrative Office of the Courts the amounts paid to the county.
- (6) The circuit clerk shall, at the time fines and costs are paid over to the state, pay ten dollars (\$10) from each court cost collected pursuant to subsection (1) of this section to the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority pursuant to KRS 441.625 to 441.695.
- (7) The circuit clerk shall monthly pay five dollars (\$5) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the Administrative Office of the Courts the amounts paid to the sheriff.

Section 160. KRS 189.393 is amended to read as follows:

<< KY ST § 189.393 >>

No operator of a vehicle, after having received a visual or audible signal from <<+an+>><<-a traffic->> officer <<+directing traffic+>><<-, or marked police vehicle,->> shall knowingly <<+or wantonly+>><<-flee or attempt to elude any traffic officer by willful or wanton->> disregard <<+the+>><<-of such->> signal so as to interfere with or endanger the operation of<<- the police vehicle, or->> the traffic officer or other vehicles or pedestrians<<-, nor shall he increase the speed of his vehicle or extinguish the lights of his vehicle in an attempt to elude or flee->>.

SECTION 161. A NEW SECTION OF KRS CHAPTER 520 IS CREATED TO READ AS FOLLOWS:

- <<+(1) A person is guilty of fleeing or evading police in the first degree when, while operating a motor vehicle with intent to elude or flee, the person knowingly or wantonly disobeys a direction to stop his or her motor vehicle, given by a person recognized to be a police officer, and at least one (1) of the following conditions exists:+>>
- <<+(a) The person is fleeing immediately after committing an act of domestic violence as defined in KRS 403.720;+>>
- <<+(b) The person is driving under the influence of alcohol or any other substance or combination of substances in violation of KRS 189A.010;+>>
- <<+(c) The person is driving while his or her driver's license is suspended for violating KRS 189A.010; or+>>
- <<+(d) By fleeing or eluding, the person is the cause, or creates substantial risk, of serious physical injury or death to any person or property; or+>>
- <<+(2) When, as a pedestrian, and with intent to elude or flee, the person knowingly or wantonly disobeys an order to stop, given by a person recognized to be a peace officer, and at least one (1) of the following conditions exists:+>>
- <<+(a) The person is fleeing immediately after committing an act of domestic violence as defined in KRS 403.720; or+>>
- <<+(b) By fleeing or eluding, the person is the cause of, or creates a substantial risk of, serious physical injury or death to any person or property.+>>
- <<+(3) Fleeing or evading police in the first degree is a Class D felony.+>>

Section 162. KRS 520.100 is amended to read as follows:

<< KY ST § 520.100 >>

- (1) A person is guilty of <<+fleeing or evading police in the second degree+>><<-resisting an order to stop a motor vehicle->> when<<+, while operating a motor vehicle with intent to elude or flee, the person+>><<-he->> knowingly <<+or wantonly disobeys+>><<-fails to obey->> a recognized direction to stop his vehicle, given by a person recognized to be a peace officer.
- (2) No offense is committed under this section when the conduct involved constitutes a failure to comply with a directive of a traffic control officer.
- (3) <<+Fleeing or evading police in the second degree+>><<-Resisting an order to stop a motor vehicle->> is a Class A misdemeanor.

Section 163. KRS 519.050 is amended to read as follows:

<< KY ST § 519.050 >>

(1) A person is guilty of impersonating a public servant<<+, other than a peace officer,+>> if he pretends to be a public servant<<+, other than a peace officer,+>> or to represent a public agency<<+, other than a law enforcement agency,+>> or act with the authority or approval of a public agency<<+, other than a law enforcement agency,+>> with intent to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense to his prejudice.

(2) Impersonating a public servant<<+, other than a peace officer,+>> is a Class A misdemeanor.

SECTION 164. A NEW SECTION OF KRS CHAPTER 519 IS CREATED TO READ AS FOLLOWS:

<<+(1) A person is guilty of impersonating a peace officer if he pretends to be a peace officer, or to represent a law enforcement agency or act with the authority or approval of law enforcement agency, with intent to induce another to submit to the pretended official authority or otherwise to act in reliance upon the pretense to his prejudice.+>>

<<+(2) Impersonating a peace officer is a Class D felony.+>>

<<+(3) As used in this section, the phrase “peace officer” means a peace officer as defined in KRS 446.010.+>>

SECTION 165. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

<<+(1) In the event of the conviction of a defendant for the violation of any offense proscribed by KRS Chapter 510 or 531, the person who was the victim of the offense may bring an action in damages against the defendant in the criminal case.+>>

<<+(2) If the plaintiff prevails, he shall be entitled to attorney’s fees and all other costs incurred in the bringing of the action, including but not limited to the services of expert witnesses, testing and counseling, medical and psychological treatment, and other expenses reasonably incurred as a result of the criminal act.+>>

<<+(3) Any award of nominal damages shall support an award of attorneys fees and costs to the prevailing party.+>>

<<+(4) Punitive damages as well as compensatory damages shall be awardable in cases brought under this section.+>>

<<+(5) The provisions of this section shall not be construed as repealing any provision of KRS 431.080 or any other applicable statute or of any statutory or common law right of action but shall be construed as ancillary and supplemental thereto.+>>

SECTION 166. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

<<+Whenever a statute mentions an alternative to incarceration, that alternative may include a community-based, faith-based, charitable, church-sponsored, or nonprofit residential or nonresidential counseling and treatment program, and, upon petition by the defendant, the court may sentence or permit the defendant to attend that program. This program may also be used for pretrial diversion.+>>

Section 167. KRS 439.335 is amended to read as follows:

<< KY ST § 439.335 >>

In considering the granting of a parole the parole board is authorized to use <<+computer voice stress analysis,+>> the polygraph, truth serum and any other scientific means for personality analysis that may hereafter be developed, before granting a parole.

SECTION 168. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

<<+(1) A person shall not take or attempt to take wildlife with a firearm, bow, or crossbow, if the person is manifestly under the influence of alcohol or any controlled substance, and the person:+>>

<<+(a) May endanger himself or herself or other persons or property; or+>>

<<+(b) Is engaging in any behavior specified in subsection (1)(a) to (d) of KRS 525.060.+>>

<<+(2) A peace officer may arrest a person for violating subsection (1) of this section.+>>

Section 169. KRS 150.990 is amended to read as follows:

<< KY ST § 150.990 >>

(1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any regulation adopted by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.

(2) Any person who violates any of the provisions of this chapter or any regulations adopted by the commission thereunder may, in addition to the penalties provided in subsection (3), (4), (5), (6), (7), and (8) of this section, forfeit his license, or if that person is license exempt, may forfeit the privilege to perform the acts authorized by the license, and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or remitted otherwise than

expressly provided by law. Any person who violates any regulation which has been or may be adopted by the commission under any provisions of this chapter or which is adopted to supplement, explain, carry out, or limit any provision of this chapter, shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the regulation is adopted or which the regulation supplements, explains, carries out, or limits.

(3) Any person who violates any of the provisions of KRS 150.120, 150.170, 150.280, 150.320, 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, 150.603, subsection (1) of KRS 150.235, subsection (2) of KRS 150.330 or 150.470, or any of the provisions of this chapter or any regulation adopted by the commission for which no definite fine or imprisonment is fixed shall be fined not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200).

(4) Any person who violates any of the provisions of KRS 150.290, 150.300, 150.340, 150.360, 150.445, 150.485, 150.600, 150.630, 150.660, <<+subsection (1) of Section 168 of this Act,+>> subsection (1) of KRS 150.450, 150.470, the provisions of KRS 150.195(5) to (8), or subsection (3) of KRS 150.660 shall be fined not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200) or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700.

(5) Any person who violates any of the provisions of KRS 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

(6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, subsection (1) of KRS 150.330, or subsections (2), (3), or (4) of KRS 150.235 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for not more than six (6) months or both.

(7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount not to exceed the replacement value of the fish and wildlife which has been killed or destroyed.

(8) Any person who violates the provisions of KRS 150.180, 150.520, 150.525, or administrative regulations issued thereunder shall, for the first offense be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1000); and shall for a second offense be fined not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1500); and for any subsequent offense, be fined two thousand dollars (\$2000).

(9) Any person who violates the provisions of KRS 150.520 or administrative regulations issued thereunder shall, if the violation relates to methods of taking mussels, for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6) months; and for any subsequent offense be imprisoned in the county jail for no more than one (1) year. The penalties for violation of subsection (9) shall be in addition to the penalties for violation of subsection (8).

(10) Any person who violates any of the provisions of KRS 150.4111, 150.640, or subsections (2) or (3) of KRS 150.450 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

(11) Any person who violates any of the provisions of KRS 150.390, or subsection (4) of KRS 150.092 shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year or both. In addition to the penalties prescribed above, he shall forfeit his license or, if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of subsection (4) of KRS 150.092 shall be liable to the landowner or occupant for reasonable compensation for damages.

(12) Any person who violates any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.

(13) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter or the administrative regulations issued thereunder shall be subject to the penalties specified for such offense under KRS Chapter 507 or 508, as appropriate.

(14) A person shall be guilty of a Class B misdemeanor upon the first violation of KRS 150.710. A subsequent violation shall be a Class A misdemeanor.

(15) Any person who violates the provisions of KRS 150.092 or the administrative regulations promulgated thereunder for which no other penalty is specified elsewhere in this section shall for the first offense be fined not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300); for the second offense, be fined not less than three hundred dollars (\$300) nor more than one thousand dollars (\$1,000); and for subsequent offenses, shall forfeit the license, or if license-exempt, the privilege to perform the acts authorized by the license, for one (1) year and shall be fined not less than one thousand dollars (\$1,000) or be imprisoned in the county jail for up to one (1) year, or both. In addition to the penalties prescribed in this subsection, the violator shall be liable to the landowner or tenant for the replacement cost of any property

which was damaged or destroyed by his actions.
Section 170. KRS 520.010 is amended to read as follows:

<< KY ST § 520.010 >>

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

- (1) “Contraband” means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, departmental regulation, or posted institutional rule or order;
- (2) “Custody” means restraint by a public servant pursuant to a lawful arrest, detention, or an order of court for law enforcement purposes, but does not include supervision of probation or parole or constraint incidental to release on bail;
- (3) “Dangerous contraband” means contraband which is capable of use to endanger the safety or security of a detention facility or persons therein, including, but not limited to, dangerous instruments as defined in KRS 500.080, any controlled substances, <<+any quantity of an alcoholic beverage,+>> and any quantity of marijuana, and saws, files, and similar metal cutting instruments;
- (4) “Detention facility” means any building and its premises used for the confinement of a person:
 - (a) Charged with or convicted of an offense;
 - (b) Alleged or found to be delinquent;
 - (c) Held for extradition or as a material witness; or
 - (d) Otherwise confined pursuant to an order of court for law enforcement purposes;
- (5) “Escape” means departure from custody or the detention facility in which a person is held or detained <<+when+>><<-with knowledge that->> the departure is unpermitted, or failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period; and
- (6) As used in this section and KRS 520.015, “penitentiary” includes any facility operated by the Department of Corrections and the confines of any work detail or other detail, whether under guard or not, under the custody and control of the Department of Corrections.

Section 171. KRS 189A.010 is amended to read as follows:

<< KY ST § 189A.010 >>

- (1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:
 - (a) While the alcohol concentration in his blood or breath is 0.10 or more based on the definition of alcohol concentration in KRS 189A.005;
 - (b) While under the influence of alcohol;
 - (c) While under the influence of any other substance or combination of substances which impairs one’s driving ability;
 - (d) While under the combined influence of alcohol and any other substance which impairs one’s driving ability; or
 - (e) While the alcohol concentration in his blood or breath is 0.02 or more based on the definition of alcohol concentration in KRS 189A.005 if the person is under the age of twenty-one (21).
- (2) In any prosecution for a violation of subsection (1)(b) or (d) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant’s blood as determined at the time of making analysis of his blood, or breath shall give rise to the following presumptions:
 - (a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and
 - (b) If there was an alcohol concentration of 0.05 or greater but less than 0.10 based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (d) of this section.
- (3) The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.
- (4) Any person who violates the provisions of paragraphs (a), (b), (c) or (d) of subsection (1) of this section shall:
 - (a) For the first offense within a five (5) year period, be fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30)

days or both. <<+If the person has a blood or breath alcohol concentration of 0.18 or higher, he or she shall be sentenced to at least seven (7) days' imprisonment, but the court may probate five (5) of those days.+>> Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both.

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars (\$350) nor more than five hundred dollars (\$500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months.

(c) <<+If the alcohol concentration is below 0.18,+>> for a third offense within a five (5) year period, be fined not less than five hundred dollars (\$500) nor more than one thousand (\$1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months. <<+If the alcohol concentration is 0.18 or above, he or she shall be guilty of a Class D felony.+>>

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony.

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state, or jurisdiction for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(e) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(5) Any person who violates the provisions of subsection (1)(e) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars (\$100) and no more than five hundred dollars (\$500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this paragraph shall not be subject to the penalties established in subsection (4) of this section or any other penalty established pursuant to KRS Chapter 189A.

(6) If the person is under the age of twenty-one (21) and there was an alcohol concentration of 0.10 or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection (4) of this section.

(7) For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(8) When sentencing persons under subsection (4)(a) of this section at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(9) 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.

SECTION 172. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

<<+(1) The sentencing court may issue a criminal garnishment order for all fines under KRS Chapter 534 or KRS 346.185, and for court costs, restitution, and reimbursement charges in this chapter.+>>

<<+(2) A criminal garnishment applies to any of the following:+>>

<<+(a) A convicted person's earnings as defined in KRS 427.005;+>>

<<+(b) Indebtedness that is owed to a convicted person by a garnishee for amounts that are not earnings;+>>

<<+(c) Money that is held by a garnishee on behalf of a convicted person;+>>

<<+(d) The convicted person's personal property that is in the possession of a garnishee; or+>>

<<+(e) If the garnishee is a corporation, shares or securities of a corporation or a proprietary interest in a corporation that belongs to a convicted person.+>>

<<+(3) The debt associated with a criminal garnishment shall constitute a charge against the estate of any decedent owing moneys under this chapter.+>>

<<+(4) The sentencing court shall combine all fines, court costs, restitution, and reimbursement charges in a single order of garnishment.+>>

<<+(5) The sentencing court shall require payment of restitution to the victim of the offense before payments of any moneys to the government or a government agency.+>>

SECTION 173. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

<<+(1) If the criminal garnishment is made upon the convicted person's earnings, the order of garnishment shall be a lien upon the earnings from the date of service on the garnishee until an order discontinuing the lien is entered. A convicted

person may challenge the garnishment by filing a challenge to the garnishment with the sentencing court. The challenge shall be heard within ten (10) days of its filing or the nearest court date thereafter. Before the hearing, garnishment shall continue. Any moneys which the court determines were improperly garnished shall be repaid to the garnishee not later than thirty (30) days after the determination.+>>>

<<+(2) The circuit clerk's office shall disburse all collected reimbursement, restitution, and fees to the victim or the local government, whichever is appropriate. The clerk shall be entitled to collect a fee of two dollars and fifty cents (\$2.50) from each account for which a disbursement is made at the time of disbursement. In the event of challenge to a garnishment, the appropriate clerk's office shall not disburse those sums associated with the challenged garnishment until determination by the sentencing court regarding the propriety of the garnishment.+>>>

SECTION 174. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

<<+(1) Any convicted person owing fines, court costs, restitution, or reimbursement before or after his release from incarceration shall be subject to a lien upon his interest, present or future, in any real property.+>>>

<<+(2) The real property lien shall be filed in the circuit clerk's office of the county in which the person was convicted and shall also be filed by the Commonwealth in any county in which the convicted person is known to own property or reside.+>>>

<<+(3) The lien may be foreclosed upon in the manner prescribed in KRS Chapter 426 and shall remain valid until satisfied. The lien shall constitute a charge against the estate of any decedent owing moneys under this chapter.+>>>

<<+(4) The attorney for the Commonwealth, and not the crime victim, shall prepare and file lien documents for moneys to be restored to the crime victim. The manner of filing, recording, and releasing the lien shall be consistent with the provisions of KRS Chapter 376.+>>>

<<+(5) The attorney for the commonwealth shall pay to the county clerk five dollars (\$5) which shall be assessed as court costs for the filing of any lien upon real estate. The filing fee shall constitute payment for both filing and release of the lien. The attorney for the Commonwealth shall notify the appropriate county clerk that the lien has been satisfied within ten (10) days of satisfaction.+>>>

<<+(6) A lien under this section shall bear interest at the same rate as for a civil judgment unless the court orders that interest not be awarded. In considering whether interest shall be awarded, the court shall consider the following factors, among others:+>>>

<<+(a) The defendant's ability to pay the amount of the interest;+>>>

<<+(b) The hardship likely to be imposed on the defendant's dependents by paying the amount of the interest and the time and method of paying it;+>>>

<<+(c) The impact that the amount of the interest will have on the defendant's ability to make reparation or restitution to the victim; and+>>>

<<+(d) The amount of the defendant's gain, if any, derived from the commission of the offense.+>>>

SECTION 175. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

<<+(1) If the garnishee holds property or moneys of the defendant, the garnishee shall immediately transfer the property or moneys to the person or official named in the garnishment.+>>>

<<+(2) If the garnishee holds personal property or stock of the defendant, the court shall hold the personal property or stock of the defendant pending an order of the court.+>>>

<<+(3) The party who obtains the garnishment shall deliver by personal service or by first class mail a copy of the order to the garnishee and to the defendant.+>>>

<<+(4) A bank deposit in the name of two (2) or more persons, one (1) of whom is the convicted person, is subject to garnishment.+>>>

SECTION 176. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

<<+If a garnishee fails to comply with the terms of the order of criminal garnishment within thirty (30) days after its issuance, the attorney for the Commonwealth may move the court to order the garnishee to show cause why he should not be held in contempt. If the court finds that the failure was willful or grossly negligent, the court shall find the garnishee in contempt and shall award reasonable attorney's fees and costs, in addition to any contempt sanction it imposes.+>>>

SECTION 177. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

<<+As used in this chapter:+>>>

<<+(1) (a) "Restitution" means any form of compensation paid by a convicted person to a victim for counseling, medical expenses, lost wages due to injury, or property damage and other expenses suffered by a victim because of a criminal act;+>>>

<<+(b) "Reimbursement" means payment of expenses associated with incarceration, including but not limited to medical expenses, food, and lodging;+>>>

<<+(c) "Sinking fund" means the fund created and used by local governments to provide maintenance of jail facilities and capital construction; improvement of law enforcement, jail, and judicial facilities; and other long-term expenditures

associated with those areas; and+>>

<<+(d) "Local government" means any county, urban-county, or charter county government.+>>

<<+(2) Definitions in KRS 441.005 apply to this chapter.+>>

SECTION 178. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

<<+(1) The sentencing court may order a person who is sentenced to a term of incarceration for any nonstatus juvenile offense, moving traffic violation, criminal violation, misdemeanor, or Class D felony offense to reimburse the state or local government for the costs of his incarceration. The reimbursements paid under this subsection shall be credited to the local government sinking fund.+>>

<<+(2) The sentencing court shall determine the amount of incarceration costs to be paid based on the following factors:+>>

<<+(a) The actual per diem, per person, cost of incarceration;+>>

<<+(b) The cost of medical services provided to a prisoner less any copayment paid by the prisoner; and+>>

<<+(c) The prisoner's ability to pay all or part of his incarceration costs.+>>

SECTION 179. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

<<+(1) A local government may require prisoners to make a reasonable copayment in advance of medical treatment received through a regional jail facility. No prisoner shall be denied medical treatment by reason of indigency, but a prisoner may be required to pay for medical treatment as part of any reimbursement order entered by the sentencing court.+>>

<<+(2) Any copayment shall be collected by the jailer or his designee and, after it is properly accounted for, shall be paid to the appropriate local government authority.+>>

SECTION 180. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

<<+(1) Upon a person's conviction and sentencing for any nonstatus juvenile offense, moving traffic violation, criminal violation, misdemeanor, or Class D felony offense, the court shall impose the following sanctions in addition to any imprisonment, fine, court cost, or community service:+>>

<<+(a) Reimbursement to the state or local government for the person's incarceration, determined by the per person, per diem, expenses of each prisoner incarcerated by the respective local government, times the number of days he has spent or shall spend in confinement, plus any medical services received by the prisoner, less copayments paid by the prisoner. The convicted person's ability to pay all or part of the reimbursement shall be considered by the sentencing court in imposing the sanction; and+>>

<<+(b) Restitution to the crime victim as set out in Sections 45 to 47 of this Act.+>>

<<+(2) Sanctions imposed by the sentencing court shall become a judgment of the court.+>>

SECTION 181. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

<<+Any prisoner who has completed his sentence in a county or regional jail shall, from the day incarceration ceases and within the time and amount designated by the sentencing court, pay restitution to his victim and reimbursement for his incarceration to the state or local government, in addition to any other monetary and community service sanctions imposed by the sentencing court. The sentencing court may use its contempt sanctions to enforce its orders.+>>

Section 182. KRS 610.345 is amended to read as follows:

<< KY ST § 610.345 >>

(1) When a child is adjudicated guilty of an offense which classifies him as a youthful offender<<- under KRS Chapter 640->>, the court in which the matter was tried shall notify the principal of any public or private elementary or secondary school which the child attends of the adjudication and the petition and disposition of the case. The name of the complainant shall be deleted. Upon written request of the authorized representative of the school, the court, if it deems it appropriate, may authorize the county attorney to give the school a statement of facts in the case.

(2) When a child is adjudicated guilty of an offense which would classify him as a violent offender under KRS 439.3401, or be a felony under KRS Chapter 218A, 508, 510, or 527 if committed by an adult, but which would not classify him as a youthful offender<<- under KRS Chapter 640->>, the court in which the matter was tried shall notify the principal of any public or private elementary or secondary school which the child attends of the charge, the adjudication, and the disposition of the case. The name of the complainant shall be deleted. Upon written request of the authorized representative of the school, the court, if it deems it appropriate, may authorize the county attorney to give the school a statement of facts in the case.

(3) <<+When a petition is filed against a child, or a child is adjudicated guilty of an offense that would be a felony or misdemeanor if committed by an adult, and the misdemeanor involves a controlled substance or the possession, carrying, or use of a deadly weapon, or physical injury to another person, the court in which the matter is considered shall notify the principal of any public or private elementary or secondary school that the child attends of the charge, the adjudication, and the disposition of the case. The name of the complainant shall be deleted. Upon written request of the authorized

representative of the school, the court, if it deems it appropriate, may authorize the county attorney to give the school a statement of the facts in the case, not to include the complainant's name.++>

<<+(4)+>> Records or information disclosed pursuant to this section shall be limited to records of that student's criminal petition and the disposition thereof covered by this section, shall be subject to the provisions of KRS 610.320 and 610.340, and shall not be disclosed to any other person, including school personnel, except to public or private elementary and secondary school administrative and counseling personnel, and to any teacher <<+or school employee with whom the student may come in contact++>><<-to whose class the student has been assigned for instruction->>. This section shall not authorize the disclosure of any other juvenile record or information relating to the child.

<<+(5)+>><<-(4)->> Records or information received by the school pursuant to this section shall be kept in a locked file, when not in use, to be opened only on permission of the administrator.

SECTION 183. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

<<+Any person who was found guilty of a felony offense under KRS Chapters 218A, 507, 508, 509, 511, or 513, or KRS 237.040, 514.100, 525.020, 525.030, 527.040, 527.070, 527.100, or theft of a motor vehicle under KRS 514.030, and who was wearing body armor and was armed with a deadly weapon at the time of the offense shall not be granted probation, shock probation, parole, conditional discharge, or any other form of early release.++>>

Section 184. KRS 530.064 is amended to read as follows:

<< KY ST § 530.064 >>

(1) A person is guilty of unlawful transaction with a minor in the first degree when he knowingly induces, assists, or causes a minor to engage in illegal sexual activity<<+, or in illegal controlled substances activity other than activity involving marijuana++>>, except those offenses involving minors in KRS Chapter 531 and KRS 529.030.

(2) Unlawful transaction with a minor is a:

(a) Class C felony if the minor so used is less than eighteen (18) years old at the time the minor engages in the prohibited activity;

(b) Class B felony if the minor so used is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and

(c) Class A felony if the minor so used incurs physical injury thereby.

Section 185. KRS 530.065 is amended to read as follows:

<< KY ST § 530.065 >>

(1) A person is guilty of unlawful transaction with a minor in the second degree when he knowingly induces, assists, or causes a minor to engage in illegal controlled substances activity <<+involving marijuana++>>, illegal gambling activity, or any other criminal activity constituting a felony.

(2) Unlawful transaction with a minor in the second degree is a Class D felony.

Section 186. KRS 197.410 is amended to read as follows:

<< KY ST § 197.410 >>

(1) A person is considered to be a "sexual offender" as used in this chapter when he:

(a) Has been adjudicated guilty of any felony described in KRS Chapter 510; or

(b) Has been adjudicated guilty of any other felony committed in conjunction with a misdemeanor described in KRS Chapter 510; or

(c) Has been adjudicated guilty of any felony under KRS 506.010 when the crime attempted is a felony or misdemeanor described in KRS Chapter 510; or

(d) Has been adjudicated guilty of a felony offense under KRS 530.020; or

(e) Has been adjudicated guilty of a felony offense <<+relating to sexual activity++>> under KRS 530.064; or

(f) Has been adjudicated guilty of a felony offense under KRS 531.310.

(2) A sexual offender becomes an "eligible sexual offender" when the sentencing court or department officials, or both, determine that the offender:

(a) Has demonstrated evidence of a mental, emotional, or behavioral disorder, but not active psychosis or mental retardation; and

(b) Is likely to benefit from the program.

(3) "Department" is the Department of Corrections.

Section 187. KRS 640.040 is amended to read as follows:

<< KY ST § 640.040 >>

(1) No youthful offender who has been convicted of a capital offense who was under the age of sixteen (16) years at the time of the commission of the offense shall be sentenced to capital punishment. A youthful offender may be sentenced to capital punishment if he was sixteen (16) years of age or older at the time of the commission of the offense. A youthful offender convicted of a capital offense regardless of age may be sentenced to a term of imprisonment appropriate for one who has committed a Class A felony and may be sentenced to life imprisonment without benefit of parole for twenty-five (25) years.

(2) No youthful offender shall be subject to persistent felony offender sentencing under the provisions of KRS 532.080 for offenses committed before the age of eighteen (18) years.

(3) No youthful offender shall be subject to limitations on probation, parole or conditional discharge as provided for in KRS 533.060.

(4) Any youthful offender convicted of a misdemeanor or any felony offense which would exempt him from KRS 635.020(2), (3), (4), (5), (6), <<- or->> (7) <<+, or (8)+>> shall be disposed of by the Circuit Court in accordance with the provisions of KRS 635.060.

Section 188. KRS 64.092 is amended to read as follows:

<< KY ST § 64.092 >>

Compensation of sheriffs and other law enforcement officers or agencies for attending court shall be as follows:

(1) Compensation shall be provided only for the actual time for which the sheriff or other officer is ordered to be physically present in the courtroom or is ordered to be physically present to discharge a duty ordered by the Chief Circuit Judge, Chief District Judge, or Judge of the Court of Appeals, as appropriate.

(2) Compensation shall not be provided for more than one (1) sheriff or other officer per courtroom unless the need for additional personnel is certified in writing by the Chief Circuit Judge, Chief District Judge, or Judge of the Court of Appeals, as appropriate, and the utilization of additional personnel is approved by the Chief Justice, or his designee. In the event of an emergency of such nature precluding contacting the Chief Justice or his designee, the Chief Circuit Judge, Chief District Judge, or Judge of the Court of Appeals may authorize such assignment of additional personnel for a period not to exceed twenty-four (24) hours.

(3) Where a single sheriff or other law enforcement officer serves more than one (1) court or courtroom during a single day he shall be paid as if he had served only one (1) courtroom during that day. Dual compensation for service during a single day shall not be permitted.

(4) Time, for compensation purposes, shall be computed as the actual time spent in the courtroom pursuant to court direction or order and the actual time spent in other service to the court as directed or ordered by the appropriate judge.

(5) Time spent in court service by a sheriff or other law enforcement officer shall be certified by the judge of the court which the officer attended and by the Chief Judge of the Circuit Court, if the service was to the Circuit Court, or by the Chief Judge of the District Court, if the service was to the District Court.

(6) <<+The sheriff or other law enforcement officer serving a Circuit or District Court+>><<-Compensation->> shall be <<+compensated+>> at the rate of eight dollars (\$8) per hour of service. If service is for a part of an hour, then compensation for such service shall be prorated for the actual number of minutes' service within a given hour.

(7) The sheriff shall receive five dollars (\$5) from each court cost collected pursuant to KRS 23A.205, 23A.215, 24A.175, and 24A.180 to help defray the cost of providing security services and related activities to the court. The moneys received by the sheriff under this subsection are authorized official expenses to be considered operating expenses of the sheriff's office and shall not be considered as part of his compensation.

Section 189. KRS 403.7527 is amended to read as follows:

<< KY ST § 403.7527 >>

A court of this state shall enforce a foreign protective order<<- filed and->> 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+>><<-authenticated pursuant to->> KRS 403.7524 shall be effective for the period of time fixed by the issuing court.

Section 190. KRS 403.7529 is amended to read as follows:

<< KY ST § 403.7529 >>

(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+>><<-may->> 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.

Section 191. KRS 403.7539 is amended to read as follows:

<< KY ST § 403.7539 >>

(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+>><<-an->> order <<+properly+>><<-filed and->> 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.

<< Repealed: KY ST § 610.115 >>

Section 192. The following KRS section is repealed:

610.115 Circumstances permitting court to order further detention of child in custody of Department of Juvenile Justice or cabinet.

Section 193. The Criminal Justice Council is directed to study the costs and benefits to the corrections system and to public safety by the creation of a Class E felony for certain crimes against property. The Council shall report its findings to the Legislative Research Commission by September 1, 1999.

Section 194. The Criminal Justice Council is directed to study the fiscal and public safety effects of involuntary civil commitments for convicted sexual predators. The Council may use the language of 1996 Senate Bill 131 for guidance. The Council shall report its findings to the Legislative Research Commission by September 1, 1999.

<< Note: KY ST §§ 7.111, 17.150, 17.151, 17.152, 27A.300, 196.093 >>

Section 195. (1) If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, each reference to the Cabinet for Human Resources in the following sections shall be codified as the Cabinet for Health Services: Sections 7, 9, 11, 12, 13, 14, 16, 18, 19, 28, and 80 of this Act.

(2) If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, the reference to the Cabinet for Human Resources appearing in subsection (1)(h) of Section 10 of this Act shall be codified as both the Cabinet for Families and Children and the Cabinet for Health Services.

Section 196. The Criminal Justice Council shall study the matter of hate crime during the interim period prior to the next regular session of the General Assembly and make recommendations to the Interim Joint Committee on Judiciary with regard to recommendations for amendment of the statutes no later than July 1, 1999.

<< Note: KY ST §§ 197.045, 197.170, 532.060 >>

Section 197. Sections 24, 25, 70, and 121 of this Act may be cited as the Sarah Hansen Act.
Section 198. Sections 99 to 110 of this Act take effect December 1, 1998.

<< Note: KY ST §§ 17.510, 17.520 >>

Section 199. The provisions of Sections 138 through 155 of this Act shall apply to persons individually sentenced or incarcerated after the effective date of this Act.

Section 200. Sections 139, 141, 150, 151, 152, 153, 154, and 155 of this Act take effect January 15, 1999.

Approved April 14, 1998.

KY LEGIS 606 (1998)

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