

1 AN ACT relating to hate crimes.

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

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

5 (1) A defendant shall be subject to an enhanced term of imprisonment under
6 subsection (3) of this section if:

7 (a) 1. He or she is convicted of a crime under KRS Chapter 507, 507A, 508,
8 509, 510, or 525, or of the attempt to commit a crime under those
9 chapters; and

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

16 (b) 1. He or she is convicted of a crime under KRS 512.020, 512.030,
17 512.040, 513.020, 513.030, or 513.040; and

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

24 (2) Unless a jury trial has been waived, when a defendant is convicted of a crime
25 outlined in subsection (1) of this section and the defendant was charged with
26 intentionally committing the underlying offense because of a person's actual or
27 perceived race, color, ethnicity, national origin, religion, mental or physical

1 disability, gender identity or expression, or sexual orientation:

2 (a) The court shall conduct a hearing, separate from the proceeding that
3 resulted in the defendant's conviction for the underlying offense, to
4 determine whether the person intentionally committed the underlying
5 offense because of a person's actual or perceived race, color, ethnicity,
6 national origin, religion, mental or physical disability, gender identity or
7 expression, or sexual orientation;

8 (b) The hearing shall occur before the same court and jury that convicted the
9 defendant of the underlying offense, unless the court for good cause
10 discharges that jury and impanels a new jury for that purpose; and

11 (c) The jury shall determine:

12 1. Whether, beyond a reasonable doubt, the person intentionally
13 committed the underlying offense because of a person's actual or
14 perceived race, color, ethnicity, national origin, religion, mental or
15 physical disability, gender identity or expression, or sexual
16 orientation; and

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

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

24 (a) If the underlying offense is a Class A or B misdemeanor, the term of
25 imprisonment shall be increased by at least half of the maximum
26 imprisonment sentence for that misdemeanor and the fine shall be at least
27 half of the maximum fine amount for that misdemeanor as provided in KRS

- 1 534.040;
- 2 (b) If the underlying offense is a Class D felony, the term of imprisonment
- 3 shall be increased by one (1) to five (5) years;
- 4 (c) If the underlying offense is a Class C felony, the term of imprisonment shall
- 5 be increased by five (5) to ten (10) years; and
- 6 (d) If the underlying offense is a Class A or B felony, the term of imprisonment
- 7 shall be increased by ten (10) to twenty (20) years.
- 8 (4) Any defendant who receives an enhanced term of imprisonment under this
- 9 section shall not be eligible for probation, shock probation, conditional
- 10 discharge, parole, or any other form of early release.

11 ➔Section 2. KRS 15.420 is amended to read as follows:

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

- 13 (1) "Cabinet" means the Justice and Public Safety Cabinet;
- 14 (2) "Hate crime" means bias-related crime, victimization, or intimidation that is a
- 15 result of or reasonably related to race, color, ethnicity, national origin, religion,
- 16 mental or physical disability, gender identity or expression, or sexual orientation;

- 17 ~~(3)~~~~(2)~~ (a) "Police officer" means:
- 18 1. A local officer, limited to:
- 19 a. A full-time:
- 20 i. Member of a lawfully organized police department of county,
- 21 urban-county, or city government; or
- 22 ii. Sheriff or full-time deputy sheriff, including any sheriff
- 23 providing court security or appointed under KRS 70.030; or
- 24 b. A school resource officer as defined in KRS 158.441; and
- 25 2. A state officer, limited to:
- 26 a. A public university police officer;
- 27 b. A Kentucky state trooper;

- 1 c. A Kentucky State Police arson investigator;
- 2 d. A Kentucky State Police hazardous device investigator;
- 3 e. A Kentucky State Police legislative security specialist;
- 4 f. A Kentucky vehicle enforcement officer;
- 5 g. A Kentucky Horse Park mounted patrol officer, subject to KRS
- 6 15.460(1)(f);
- 7 h. A Kentucky state park ranger, subject to KRS 15.460(1)(f);
- 8 i. An agriculture investigator;
- 9 j. A charitable gaming investigator;
- 10 k. An alcoholic beverage control investigator;
- 11 l. An insurance fraud investigator;
- 12 m. An Attorney General investigator; and
- 13 n. A Kentucky Department of Fish and Wildlife Resources
- 14 conservation officer, subject to KRS 15.460(1)(e);
- 15 who is responsible for the prevention and detection of crime and the
- 16 enforcement of the general criminal laws of the state;

17 (b) "Police officer" does not include any sheriff who earns the maximum
 18 constitutional salary for this office, any special deputy sheriff appointed under
 19 KRS 70.045, any constable, deputy constable, district detective, deputy district
 20 detective, special local peace officer, auxiliary police officer, or any other
 21 peace officer not specifically authorized in KRS 15.410 to 15.510;

22 ~~(4)~~~~(3)~~ "Police department" means the employer of a police officer;

23 ~~(5)~~~~(4)~~ "Retirement plan" means a defined benefit plan consisting of required
 24 employer contributions pursuant to KRS 61.565, 61.702, or any other provision of
 25 law;

26 ~~(6)~~~~(5)~~ "Unit of government" means any city, county, combination of cities and
 27 counties, public university, state agency, local school district, or county sheriff's

1 office of the Commonwealth; and

2 ~~(Z)(6)~~ "Validated job task analysis" means the core job description that describes the
3 minimum entry level requirements, qualifications, and training requirements for
4 peace officers in the Commonwealth, and that is based upon an actual survey and
5 study of police officer duties and responsibilities conducted by an entity recognized
6 by the council as being competent to conduct such a study.

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

8 (1) Each unit of government that meets the following requirements shall be eligible to
9 share in the distribution of funds from the Law Enforcement Foundation Program
10 fund:

11 (a) Employs one (1) or more police officers;

12 (b) Pays every police officer at least the minimum federal wage;

13 (c) Requires all police officers to have, at a minimum, a high school degree, or its
14 equivalent as determined by the council, except that each police officer
15 employed prior to the date on which the officer's police department was
16 included as a participant under KRS 15.410 to 15.510 shall be deemed to have
17 met the requirements of this subsection;

18 (d) 1. Requires all police officers to successfully complete a basic training
19 course of nine hundred twenty-eight (928) hours' duration within one (1)
20 year of the date of employment at a school certified or recognized by the
21 council, which may provide a different number of hours of instruction as
22 established in this paragraph, except that each police officer employed
23 prior to the date on which the officer's police department was included
24 as a participant under KRS 15.410 to 15.510 shall be deemed to have
25 met the requirements of this subsection.

26 2. As the exclusive method by which the number of hours required for
27 basic training courses shall be modified from that which is specifically

1 established by this paragraph, the council may, by the promulgation of
2 administrative regulations in accordance with the provisions of KRS
3 Chapter 13A, explicitly set the exact number of hours for basic training
4 at a number different from nine hundred twenty-eight (928) hours based
5 upon a training curriculum approved by the Kentucky Law Enforcement
6 Council as determined by a validated job task analysis.

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

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

25 5. KRS 15.400 and 15.404(1) and subparagraphs 1. to 4. of this paragraph
26 to the contrary notwithstanding, the council may, through the
27 promulgation of administrative regulations in accordance with KRS

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

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

1 adult abuse and domestic violence to the Cabinet for Health and Family
2 Services, Department for Community Based Services; victim rights,
3 assistance, and service responsibilities; and duties related to timely completion
4 of records;

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

- 8 1. A requirement that evidence collected as a result of an examination
9 performed under KRS 216B.400 be taken into custody within five (5)
10 days of notice from the collecting facility that the evidence is available
11 for retrieval;
- 12 2. A requirement that evidence received from a collecting facility relating
13 to an incident which occurred outside the jurisdiction of the police
14 department be transmitted to a police department with jurisdiction
15 within ten (10) days of its receipt by the police department;
- 16 3. A requirement that all evidence retrieved from a collecting facility under
17 this paragraph be transmitted to the Department of Kentucky State
18 Police forensic laboratory within thirty (30) days of its receipt by the
19 police department;
- 20 4. A requirement that a suspect standard, if available, be transmitted to the
21 Department of Kentucky State Police forensic laboratory with the
22 evidence received from a collecting facility; and
- 23 5. A process for notifying the victim from whom the evidence was
24 collected of the progress of the testing, whether the testing resulted in a
25 match to other DNA samples, and if the evidence is to be destroyed. The
26 policy may include provisions for delaying notice until a suspect is
27 apprehended or the office of the Commonwealth's attorney consents to

1 the notification, but shall not automatically require the disclosure of the
 2 identity of any person to whom the evidence matched;~~and~~

3 (j) Possesses by January 1, 2023, a written policy and procedures manual
 4 related to hate crimes which includes:

5 1. A requirement that crimes identified, investigated, and reported as
 6 hate crimes be submitted through the Federal Bureau of
 7 Investigation's Uniform Crime Reporting Program;

8 2. A standardized system of collecting, analyzing, and reporting the
 9 incidence of a hate crime;

10 3. The establishment of a unit specialized in identifying, investigating,
 11 and reporting hate crimes; and

12 4. A requirement for engaging in community related functions related to
 13 hate crime prevention and education such as establishing a liaison
 14 with formal community-based organizations or leaders and
 15 conducting public meetings or educational forums on the impact of
 16 hate crimes; and

17 ~~(k)(j)~~ Requires all police officers to successfully complete by December 31,
 18 2022, and every two (2) years thereafter, a training course certified by the
 19 council of not less than four (4) hours in emergency vehicle operation.

20 (2) A unit of government which meets the criteria of this section shall be eligible to
 21 continue sharing in the distribution of funds from the Law Enforcement Foundation
 22 Program fund only if the police department of the unit of government remains in
 23 compliance with the requirements of this section.

24 (3) Deputies employed by a sheriff's office shall be eligible to participate in the
 25 distribution of funds from the Law Enforcement Foundation Program fund
 26 regardless of participation by the sheriff.

27 (4) Failure to meet a deadline established in a policy adopted pursuant to subsection

1 (1)(i) of this section for the retrieval or submission of evidence shall not be a basis
2 for a dismissal of a criminal action or a bar to the admissibility of the evidence in a
3 criminal action.

4 ➔Section 4. KRS 15.334 is amended to read as follows:

5 (1) The Kentucky Law Enforcement Council shall approve mandatory training subjects
6 to be taught to all students attending a law enforcement basic training course that
7 include but are not limited to:

8 (a) Abuse, neglect, and exploitation of the elderly and other crimes against the
9 elderly, including the use of multidisciplinary teams in the investigation and
10 prosecution of crimes against the elderly;

11 (b) The dynamics of domestic violence, pediatric abusive head trauma, as defined
12 in KRS 620.020, child physical and sexual abuse, and rape; child
13 development; the effects of abuse and crime on adult and child victims,
14 including the impact of abuse and violence on child development; legal
15 remedies for protection; lethality and risk issues; profiles of offenders and
16 offender treatment; model protocols for addressing domestic violence, rape,
17 pediatric abusive head trauma, as defined in KRS 620.020, and child abuse;
18 available community resources and victim services; and reporting
19 requirements. This training shall be developed in consultation with legal,
20 victim services, victim advocacy, and mental health professionals with
21 expertise in domestic violence, child abuse, and rape. Training in recognizing
22 pediatric abusive head trauma may be designed in collaboration with
23 organizations and agencies that specialize in the prevention and recognition of
24 pediatric abusive head trauma approved by the secretary of the Cabinet for
25 Health and Family Services;

26 (c) Human immunodeficiency virus infection and acquired immunodeficiency
27 virus syndrome;

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

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

1 origin.

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

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

10 ➔Section 6. KRS 15.340 is amended to read as follows:

11 Subject to approval by the secretary, the department may make its facilities and services
12 available upon the following terms:

13 (1) The department may determine to which law enforcement agencies, corrections
14 agencies, and court agencies and its officers it will offer training;

15 (2) In determining the law enforcement officers for which it will offer training and in
16 allocating available funds, the department shall give first priority to "police officers"
17 as defined by KRS 15.420(3)~~(2)~~, public airport authority security officers, and
18 campus police;

19 (3) Fire investigators shall be offered training by the department;

20 (4) Except for the officers described in subsection (2) of this section, the department
21 may determine whether persons to whom it offers training or agencies employing
22 such persons must bear any or all costs of such training.

23 ➔Section 7. KRS 15.460 is amended to read as follows:

24 (1) (a) Except as provided in subsection (4)(a) of this section, an eligible unit of
25 government shall be entitled to receive an annual supplement of three
26 thousand dollars (\$3,000) for each qualified police officer it employs. The
27 supplement amount shall be increased to four thousand dollars (\$4,000)

1 beginning July 1, 2018.

2 (b) 1. In addition to the supplement, the unit of government shall receive an
3 amount equal to the required employer's contribution on the supplement
4 to the retirement plan and duty category to which the officer belongs. In
5 the case of County Employees Retirement System membership, the
6 retirement plan contribution on the supplement shall be paid whether the
7 officer enters the system under hazardous duty coverage or
8 nonhazardous coverage.

9 2. The unit of government shall pay the amount received for retirement
10 plan coverage to the appropriate retirement system to cover the required
11 employer contribution on the pay supplement.

12 3. If the foundation program funds are insufficient to pay employer
13 contributions to the system, then the total amount available for
14 retirement plan payments shall be prorated to each eligible government
15 so that each receives the same percentage of required retirement plan
16 costs attributable to the cash salary supplement.

17 (c) 1. In addition to the payments received under paragraphs (a) and (b) of this
18 subsection, but only if sufficient funds are available to make all
19 payments required under paragraph (b) of this subsection, each unit of
20 government shall receive an administrative expense reimbursement in an
21 amount equal to seven and sixty-five one-hundredths percent (7.65%) of
22 the total annual supplement received greater than three thousand one
23 hundred dollars (\$3,100) for each qualified police officer that is a local
24 officer as defined in KRS 15.420~~(3)(a)1.~~~~[(2)(a)1.]~~ that it employs,
25 subject to the cap established by subparagraph 3. of this paragraph.

26 2. The unit of government may use the moneys received under this
27 paragraph in any manner it deems necessary to partially cover the costs

1 of administering the payments received under paragraph (a) of this
2 subsection.

3 3. The total amount distributed under this paragraph shall not exceed the
4 total sum of five hundred twenty-five thousand dollars (\$525,000) for
5 each fiscal year. If there are insufficient funds to provide for full
6 reimbursement as provided in subparagraph 1. of this paragraph, then
7 the amount shall be distributed pro rata to each eligible unit of
8 government so that each receives the same percentage attributable to its
9 total receipt of the cash salary supplement.

10 (d) In addition to the payments received under paragraphs (a) and (b) of this
11 subsection, each unit of government shall receive the associated fringe
12 benefits costs for the total supplement of four thousand dollars (\$4,000) for
13 each qualified police officer that is a state officer as defined in KRS
14 15.420(3)(a)2.~~[(2)(a)2.]~~ that it employs. Fringe benefits shall be limited to
15 retirement plan contributions and the federal insurance contributions act tax.

16 (e) Notwithstanding paragraphs (a) to (d) of this subsection, a Kentucky
17 Department of Fish and Wildlife Resources conservation officer appointed
18 pursuant to KRS 150.090(2) and listed in KRS 15.420(3)(a)2.n.~~[(2)(a)2.n.]~~
19 shall be a participant in the Kentucky Law Enforcement Foundation Program
20 fund, but shall not receive an annual supplement from that fund. A
21 conservation officer shall receive an annual training stipend commensurate to
22 the annual supplement paid to the police officer as defined in KRS 15.420.
23 The annual training stipend disbursed to a conservation officer shall be paid
24 from the game and fish fund pursuant to KRS 150.150.

25 (f) Any peace officer sanctioned by the Tourism, Arts and Heritage Cabinet shall
26 be deemed a police officer solely for the purpose of inclusion in the Law
27 Enforcement Foundation Program fund.

- 1 (2) The supplement provided in subsection (1) of this section shall be paid by the unit
2 of government to each police officer whose qualifications resulted in receipt of a
3 supplemental payment. The payment shall be in addition to the police officer's
4 regular salary and, except as provided in subsection (4)(b) of this section, shall
5 continue to be paid to a police officer who is a member of:
- 6 (a) The Kentucky National Guard during any period of activation under Title 10
7 or 32 of the United States Code or KRS 38.030; or
- 8 (b) Any reserve component of the United States Armed Forces during any period
9 of activation with the United States Armed Forces.
- 10 (3) (a) A qualified sheriff who receives the maximum salary allowed by Section 246
11 of the Kentucky Constitution and KRS 64.527 shall not receive a supplement.
- 12 (b) A qualified sheriff who does not receive the maximum salary allowed by
13 Section 246 of the Kentucky Constitution and KRS 64.527, excluding the
14 expense allowance provided by KRS 70.170, shall upon annual settlement
15 with the fiscal court under KRS 134.192, receive that portion of the
16 supplement that will not cause his or her compensation to exceed the
17 maximum salary.
- 18 (c) A qualified sheriff who seeks to participate in the fund shall forward a copy of
19 the annual settlement prepared under KRS 134.192 to the fund. The sheriff
20 shall reimburse the fund if an audit of the annual settlement conducted
21 pursuant to KRS 134.192 reflects that the sheriff received all or a portion of
22 the supplement in violation of this section. A sheriff who fails to provide a
23 copy of the annual settlement to the fund or to reimburse the fund after
24 correction by audit, if required, shall not be qualified to participate in the fund
25 for a period of two (2) years.
- 26 (d) A qualified deputy sheriff shall receive the supplement from the sheriff if the
27 sheriff administers his or her own budget or from the county treasurer if the

1 sheriff pools his or her fees. The failure of a sheriff to comply with the
2 provisions of this section shall not affect the qualification of his or her
3 deputies to participate in the fund.

4 (4) (a) Eligible units of government shall receive the salary supplement, excluding
5 funds applicable to the employer's retirement plan contribution, provided in
6 subsection (1) of this section for distribution to a police officer who is eligible
7 under subsection (2) of this section.

8 (b) A qualified police officer receiving a salary supplement during any period of
9 military activation, as provided in subsection (2) of this section, shall not be
10 entitled to receive the employer's retirement plan contribution, and the salary
11 supplement shall not be subjected to an employee's contribution to a
12 retirement plan. The salary supplement shall otherwise be taxable for all
13 purposes.

14 (5) A unit of government receiving disbursements under this section shall follow all
15 laws applicable to it that may govern due process disciplinary procedures for its
16 officers, but this subsection shall not be interpreted to:

17 (a) Authorize the department, the cabinet, or the council to investigate, judge, or
18 exercise any control or jurisdiction regarding the compliance of a unit of
19 government with laws that may govern due process disciplinary procedures
20 for its officers, except as otherwise provided by laws;

21 (b) Create a private right of action for any police officer regarding an agency's
22 participation in this section;

23 (c) Authorize a termination of an agency's participation as a result of a judgment
24 that the unit of government failed to follow its procedures in any independent
25 cause of action brought by the police officer against the unit of government; or

26 (d) Prevent the adoption, amendment, or repeal of any laws that may govern the
27 due process disciplinary procedures of a unit of government's police officers.

1 ➔Section 8. KRS 15.512 is amended to read as follows:

2 Each law enforcement agency or other employing agency whose officers are required to
3 meet the training requirements of KRS 15.440~~(l)(k)(1)(j)~~ shall retain a record of each of
4 its officers having met the biennial training. These records shall be made available upon
5 request to the Kentucky Law Enforcement Council and to the Justice and Public Safety
6 Cabinet.

7 ➔Section 9. KRS 15.520 is amended to read as follows:

8 (1) As used in this section:

9 (a) "Citizen" means any individual who is not:

- 10 1. A member or supervisor within the law enforcement agency that
11 employs an officer; or
12 2. An elected or appointed official within the unit of government under
13 which the law enforcement agency that employs the officer is organized;

14 (b) "Complaint" means any statement by a citizen, whether written or verbal, that
15 alleges any type of misconduct by an officer, including statements that are
16 submitted or received anonymously;

17 (c) "Disciplinary action" means termination, demotion, a decrease in pay or grade,
18 suspension without pay, and a written reprimand;

19 (d) "General employment policies" means the rules, regulations, policies, and
20 procedures commonly applicable to the general workforce or civilian
21 employees that are not unique to law enforcement activities or the exercise of
22 peace officer authority, regardless of whether those rules, regulations, policies,
23 and procedures exist or appear in a departmental manual or handbook that is
24 solely applicable to a law enforcement department or agency within the unit of
25 government employing the officer;

26 (e) "Interrogation" means a formal investigative interview and does not mean
27 conversations or meetings of supervisory personnel and subordinate officers

1 that are not intended to result in disciplinary action, such as conversations or
2 meetings held for the purpose of providing corrective instruction counseling
3 or coaching;

4 (f) "Law enforcement procedures" means only those policies, rules, and customs
5 that:

- 6 1. Are specific to the conduct of officers in the exercise of law enforcement
7 powers and functions, including, without limitation: use of force,
8 conduct in the course of pursuits, conduct during stops or detentions of
9 citizens, conduct in the course of interacting with, assisting, or
10 questioning of citizens, and investigative conduct;
- 11 2. Are carried out in the course of peace officer functions;
- 12 3. Are not general employment policies; and
- 13 4. May exist in either written form or in the form of unwritten standards,
14 practices, or protocols generally accepted and applied in the law
15 enforcement profession;

16 (g) "Misconduct" means any act or omission by an officer that violates criminal
17 law, law enforcement procedures, or the general employment policies of the
18 employing agency; and

19 (h) "Officer" means a person employed as a full-time peace officer by a unit of
20 government that receives funds under KRS 15.410 to 15.510, except a state
21 officer listed in KRS 15.420(3)(a)2.b. to f. and n., ~~[(2)(a)2.b. to f. and n.]~~, who
22 has completed any officially established initial probationary period of
23 employment lasting no longer than twelve (12) months not including, unless
24 otherwise specified by the employing agency, any time the officer was
25 employed and completing the basic training required by KRS 15.404.

26 (2) In order to establish a minimum system of professional conduct for officers of local
27 units of government of this Commonwealth, the following standards are stated as

1 the intention of the General Assembly to deal fairly and establish administrative due
2 process rights in certain disciplinary matters concerning those officers of an
3 employing unit of government that participates in the Kentucky Law Enforcement
4 Foundation Program fund administered pursuant to KRS 15.430 and, at the same
5 time, to provide a means for redress by the citizens of the Commonwealth for
6 wrongs allegedly done to them by officers covered by this section.

7 (3) Any complaint taken from a citizen alleging misconduct on the part of any officer
8 shall be taken as follows:

9 (a) If the complaint alleges criminal activity by an officer, the allegations may be
10 investigated without a signed, sworn complaint of the citizen;

11 (b) If the complaint alleges any other type of violation not constituting criminal
12 activity, including violations of law enforcement procedures or the general
13 employment policies of the employing agency, an affidavit, signed and sworn
14 to by the citizen, shall be obtained, except as provided by paragraph (c) of this
15 subsection; or

16 (c) If a complaint is required to be obtained and the citizen, upon request, refuses
17 to make allegations under oath in the form of an affidavit, signed and sworn
18 to, the employing agency may investigate the allegations, but shall bring
19 charges under subsection (6) of this section against the officer only if the
20 employing agency can independently substantiate the allegations absent the
21 sworn statement of the citizen.

22 (4) (a) When an officer is accused of an act or omission that would constitute a
23 violation of law enforcement procedures by any individual within the law
24 enforcement agency employing the officer, including supervisors and elected
25 or appointed officials of the officer's employing agency, the employing agency
26 shall conform the conduct of any investigation to the provisions of subsection
27 (5) of this section, shall formally charge the officer in accordance with

1 subsection (6) of this section, and shall conduct a hearing in accordance with
2 subsection (7) of this section before any disciplinary action shall be taken
3 against the officer.

4 (b) The provisions of this subsection shall not prevent the employing agency from
5 suspending the officer, with or without pay, during an investigation and
6 pending the final disposition of any formal charges, except that an officer
7 suspended without pay shall be entitled to full back pay and benefits for the
8 regular hours he or she would have worked if no formal charges are brought or
9 the hearing authority finds the officer not guilty of the charges.

10 (c) An employing agency shall not be required to follow the provisions of this
11 section in addressing conduct by the officer that would constitute a violation
12 of the general employment policies of the employing agency.

13 (5) (a) Any complaint filed by a citizen under subsection (3) of this section or any
14 allegation of conduct that would constitute a violation of law enforcement
15 procedures under subsection (4) of this section shall be investigated by the
16 employing agency or another designated law enforcement agency in
17 accordance with the provisions of this subsection if the employing agency
18 determines that an investigation of the complaint or the alleged conduct is
19 warranted.

20 (b) No threats, promises, or coercions shall be used at any time against any officer
21 while he or she is a suspect in a criminal case or has been accused of a
22 violation of law enforcement procedures. Suspension from duty with or
23 without pay, or reassignment to other than an officer's regular duties during
24 the period shall not be deemed coercion. Prior to or within twenty-four (24)
25 hours after suspending the officer pending investigation or disposition of a
26 complaint, the officer shall be advised in writing of the reasons for the
27 suspension.

- 1 (c) Unless otherwise agreed to in writing by the officer, no police officer shall be
2 subjected to interrogation for alleged conduct that violates law enforcement
3 procedures, until forty-eight (48) hours have expired from the time the request
4 for interrogation is made to the accused officer, in writing. The notice of
5 interrogation shall include a statement regarding any reason for the
6 interrogation and shall be served on the officer by certified mail, return receipt
7 requested, or by personal delivery.
- 8 (d) The interrogation shall be conducted while the officer is on duty. The officer
9 may be required to submit a written report of the alleged incident if the
10 request is made by the employing agency no later than the end of the subject
11 officer's next tour of duty after the tour of duty during which the employing
12 agency initially was made aware of the complaint.
- 13 (e) If an officer is under arrest, or likely to be arrested, or a suspect in any
14 criminal investigation, he or she shall be afforded the same constitutional due
15 process rights that are accorded to any civilian, including, but not limited to,
16 the right to remain silent and the right to counsel, and shall be notified of
17 those rights before any questioning commences.
- 18 (6) (a) If it is determined through investigation or other means that the facts alleged
19 in a citizen complaint or in an accusation of a violation of law enforcement
20 procedures warrant charging the officer, the charge shall be made in writing
21 with sufficient specificity so as to fully inform the officer of the nature and
22 circumstances of the alleged violation in order that he or she may be able to
23 properly defend himself or herself.
- 24 (b) The charge shall be signed by a representative of the employing agency, shall
25 set out the disciplinary action recommended or imposed, and shall be served
26 on the officer in writing by certified mail, return receipt requested, or by
27 personal delivery.

- 1 (c) When an officer has been charged with a violation of law enforcement
2 procedures, no public statements shall be made concerning the alleged
3 violation by any person or persons of the employing agency or the officer so
4 charged, until final disposition of the charges.
- 5 (d) No officer as a condition of continued employment by the employing agency
6 shall be compelled to speak or testify or be questioned by any person or body
7 of a nongovernmental nature.
- 8 (7) Unless waived by the charged officer in writing, a hearing shall be conducted by the
9 officer's appointing authority to determine whether there is substantial evidence to
10 prove the charges and to determine what, if any, disciplinary action shall be taken if
11 substantial evidence does exist. In conducting a hearing, the following
12 administrative due process rights shall be recognized and these shall be the
13 minimum rights afforded any officer charged, except as otherwise agreed to in
14 writing by the officer and the employing agency:
- 15 (a) The accused officer shall be given at least twelve (12) days' written notice of
16 any hearing. The notice of hearing shall be served on the officer by certified
17 mail, return receipt requested, or by personal delivery;
- 18 (b) Copies of any sworn statements or affidavits to be considered by the hearing
19 authority and any exculpatory statements or affidavits shall be furnished to the
20 officer no less than twelve days (12) prior to the time of any hearing;
- 21 (c) At any hearing based upon the sworn complaint of a citizen, the citizen shall
22 be notified to appear at the time and place of the hearing by certified mail,
23 return receipt requested, or by personal delivery;
- 24 (d) If the return receipt has been returned unsigned, or the individual does not
25 appear, except due to circumstances beyond his or her control he or she cannot
26 appear at the time and place of the hearing, any charge resulting from a
27 complaint made by that citizen shall not be considered by the hearing

- 1 authority and shall be dismissed with prejudice;
- 2 (e) The accused officer shall have the right and opportunity to obtain and have
3 counsel present, and to be represented by counsel;
- 4 (f) The appointing authority, legislative body, or other body as designated by the
5 Kentucky Revised Statutes shall subpoena and require the attendance of
6 witnesses and the production by them of books, papers, records, and other
7 documentary evidence at the request of the accused officer or the charging
8 party. If any person fails or refuses to appear under the subpoena, or to testify,
9 or to attend, or produce the books, papers, records, or other documentary
10 evidence lawfully required, the appointing authority, legislative body, or other
11 body as designated by the Kentucky Revised Statutes may report to the Circuit
12 Court or any judge thereof the failure or refusal, and apply for a rule. The
13 Circuit Court, or any judge thereof, may on the application compel obedience
14 by proceedings for contempt as in the case of disobedience of the
15 requirements of a subpoena issued from the court;
- 16 (g) The accused officer shall be allowed to present witnesses and any
17 documentary or other relevant evidence the officer wishes to provide to the
18 hearing authority, and may cross-examine all witnesses called by the charging
19 party;
- 20 (h) If any officer who has been suspended with or without pay is not given a
21 hearing as provided by this section within seventy-five (75) days of any charge
22 being filed pursuant to this section, the charge shall be dismissed with
23 prejudice and shall not be considered by any hearing authority and the officer
24 shall be reinstated with full back pay and benefits;
- 25 (i) Any officer who has been suspended without pay who is found not guilty of
26 the charges by the hearing authority shall be reinstated with the full back pay
27 and benefits for the regular hours he or she would have worked;

- 1 (j) The failure to provide any of the rights or to follow the provisions of this
2 section may be raised by the officer with the hearing authority. The hearing
3 authority shall not exclude proffered evidence based on failure to follow the
4 requirements of this section but shall consider whether, because of the failure,
5 the proffered evidence lacks weight or credibility and whether the officer has
6 been materially prejudiced; and
- 7 (k) To the extent the provisions of KRS 61.805 to 61.850 are applicable, the
8 hearing authority may conduct the hearing required by this subsection in a
9 closed session, unless the officer requests of the hearing authority in writing at
10 least three (3) days prior to the hearing that the hearing be open to the public.
- 11 (8) (a) Any officer who is found guilty by any hearing authority of any charge, may
12 bring an action in the Circuit Court in the county in which the employing
13 agency is located within thirty (30) days of the date written findings are issued
14 to appeal the action of the hearing authority. The appeal shall be initiated by
15 the filing of a complaint in the same manner as any civil action under the
16 Rules of Civil Procedure and shall include a copy of the hearing authority's
17 final order. The Circuit Court review of the case shall be based solely upon the
18 administrative record created before the hearing authority and any new
19 evidence offered by the officer regarding alleged arbitrariness on the part of
20 the hearing authority.
- 21 (b) The judgment of the Circuit Court shall be subject to appeal to the Court of
22 Appeals. The procedure as to appeal to the Court of Appeals shall be the same
23 as in any civil action.
- 24 (9) The provisions of KRS 90.310 to 90.410, 95.450, and 95.765 shall not apply in any
25 proposed disciplinary action arising from a citizen complaint made under subsection
26 (3) of this section or arising from any allegation of conduct that would constitute a
27 violation of law enforcement procedures under subsection (4) of this section. This

1 section shall not be interpreted or construed to alter or impair any of the substantive
2 rights provided to a city police officer under KRS 90.310 to 90.410, 95.450, and
3 95.765 for any proposed disciplinary action or other matters not arising under
4 subsections (3) and (4) of this section, including proposed actions involving alleged
5 violations of general employment policies. To the extent that the provisions of this
6 section are inapplicable to any proposed disciplinary action against a city police
7 officer, the provisions of KRS 90.310 to 90.410, 95.450, and 95.765 shall remain in
8 full force and effect.

9 (10) As the provisions of this section relate to a minimum system of professional
10 conduct, nothing in this section shall be interpreted or construed to:

11 (a) Limit or to in any way affect any rights previously afforded to officers of the
12 Commonwealth by statute, collective bargaining or working agreement, or
13 legally adopted ordinance;

14 (b) Preclude an employing agency from investigating and charging an officer both
15 criminally and administratively;

16 (c) Prevent the suspension with or without pay or reassignment of an officer
17 during an investigation and pending final disposition charges;

18 (d) Permit an employing agency to categorize and treat any complaint that
19 originates from a citizen as an internal matter in order to avoid application of
20 all of the provisions of this section to the final disposition of a citizen's
21 complaint;

22 (e) Apply any disciplinary action required by this section to actions taken by an
23 employing agency that is not related to misconduct by a law enforcement
24 officer, such as personnel decisions made by the employing agency due to a
25 lack of resources or personnel decisions related to a chief's management of a
26 police department; or

27 (f) Prevent an employing agency from electing to apply the provisions of this

1 section, or parts thereof, in circumstances that would not be covered under this
2 section.

3 (11) This section shall not apply to officers employed by a consolidated local
4 government that receives funds under KRS 15.410 to 15.510, who shall instead be
5 governed by the provisions of KRS 67C.326.

6 ➔Section 10. The following KRS sections are repealed:

7 49.320 Victim of hate crime deemed victim of criminally injurious conduct.

8 532.031 Hate crimes -- Finding -- Effect -- Definitions.

9 ➔Section 11. The restrictions of KRS 6.945(1) shall not apply to Sections 1 to 9
10 of this Act.