

1 AN ACT relating to metropolitan correctional services departments.

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

3 ➔Section 1. KRS 67B.020 is amended to read as follows:

4 As used in this chapter, ~~the following words or terms shall have the respective meanings~~  
5 ~~indicated,~~ unless ~~a different meaning is clearly indicated by~~ the context ***otherwise***  
6 ***requires:***

7 (1) "Department" means a metropolitan correctional services department created or  
8 maintained by a consolidated local government or the fiscal court of a county  
9 containing a city of the first class, where the constitutional offices of sheriff and  
10 jailer have been consolidated, pursuant to this chapter; ~~[-]~~

11 (2) "Fiscal court" means the county judge/executive and justices of the peace of a  
12 county, or the county judge/executive and three (3) county commissioners elected  
13 pursuant to KRS 67.050 and 67.060, which exercises the legislative functions of a  
14 county as provided by the provisions of the Kentucky Revised Statutes; ~~[-]~~

15 (3) "Correctional facility" means the county jail and all other detention and penal  
16 facilities of a county or consolidated local government, whether for juvenile or  
17 adult offenders and public wards, together with all rehabilitative facilities of ~~such~~  
18 ~~a~~ county or consolidated local government for juvenile or adult offenders and for  
19 public wards, including facilities operated by private agencies under contract with  
20 the consolidated local government or fiscal court, as ***those*** ~~such~~ facilities may be  
21 designated from time to time by the consolidated local government or fiscal  
22 court; ~~[-]~~

23 (4) "Sheriff" means the sheriff of a county or the sheriff in a county containing a  
24 consolidated local government who has been duly elected by the qualified voters as  
25 provided in Section 99 of the Constitution of the Commonwealth of Kentucky; ~~[-]~~

26 (5) "Jailer" means the jailer of a county or the jailer in a county containing a  
27 consolidated local government who has been duly elected by the qualified voters of

1 a county as provided in Section 99 of the Constitution of the Commonwealth of  
2 Kentucky;[-]

3 (6) "Governmental agency" means any incorporated city, division of a city, or  
4 consolidated local government, including the United States of America, and its  
5 agencies and instrumentalities, situated within, or conducting public operations  
6 within, a county in which a metropolitan correctional services department has been  
7 duly established;[-]

8 (7) "Consolidated local government" means a local government established pursuant to  
9 KRS Chapter 67C; and

10 (8) "Peace officer" means a corrections officer employed by a metropolitan  
11 correctional service department established by a consolidated local government or  
12 the fiscal court of a county containing a city of the first class.

13 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 67B IS CREATED TO  
14 READ AS FOLLOWS:

15 (1) A peace officer appointed by the metropolitan correctional services department  
16 under KRS Chapter 67B shall be a public peace officer and conservator of the  
17 peace. The officer shall have general police powers including the power to arrest,  
18 without process, all persons who within the officer's view commit any crime or  
19 misdemeanor. They shall possess all of the common law and statutory powers,  
20 privileges, and immunities of sheriffs. Without limiting the general powers under  
21 this subsection, a peace officer appointed under this section shall be specifically  
22 authorized and empowered, and it shall be the officer's duty to:

23 (a) Preserve the peace, maintain order, and prevent unlawful use of force or  
24 violence or other unlawful conduct on all property owned or being used by  
25 the metropolitan correctional services department under KRS Chapter 67B,  
26 and to protect all persons and property located on the property from injury,  
27 harm, and damage;

1 (b) If permitted by and in accordance with the policies of the metropolitan  
 2 correctional services department under KRS Chapter 67B, enforce all laws  
 3 and regulations of the home incarceration program under KRS 532.200 to  
 4 532.250 upon inmates under the custody and control of the department; and

5 (c) Assist and cooperate with other law enforcement agencies and officers.

6 (2) A peace officer appointed under this section may exercise his or her powers away  
 7 from the locations described in subsection (1) of this section only when:

8 (a) In immediate pursuit of an actual or suspected violator of the law;

9 (b) Authorized to do so pursuant to subsection (1) of this section;

10 (c) Requested to act by the chief of a consolidated local government police force  
 11 described under KRS 67C.301 to 67C.327;

12 (d) Requested to act by the commissioner of the Department of Kentucky State  
 13 Police;

14 (e) Requested to act by the authorized delegates of those persons or agencies  
 15 listed in paragraph (c) or (d) of this subsection; or

16 (f) Requested to assist a state, county, or municipal police officer, sheriff, or  
 17 other peace officer in the performance of his or her lawful duties.

18 (3) An agency created and operated by a metropolitan corrections services  
 19 department under KRS Chapter 67B shall be deemed a law enforcement agency  
 20 and its sworn peace officers shall be deemed public peace officers.

21 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 67B IS CREATED TO  
 22 READ AS FOLLOWS:

23 (1) In order to establish a minimum system of professional conduct for peace officers  
 24 of this Commonwealth, the following standards of conduct are stated as the  
 25 intention of the General Assembly to establish fairness and set administrative due  
 26 process rights for peace officers while providing a means for redress by the  
 27 citizens of the Commonwealth for wrongs allegedly done to them by peace

1 officers covered by this section:

2 (a) Any complaint from any individual alleging misconduct on the part of any  
3 peace officer shall be taken as follows:

4 1. If the complaint alleges criminal activity on behalf of a peace officer,  
5 the allegations may be investigated without a signed, sworn complaint  
6 of the individual;

7 2. If the complaint alleges abuse of official authority or a violation of  
8 rules and regulations of the department, an affidavit, signed and  
9 sworn to by the complainant, shall be obtained;

10 3. If a complaint is required to be obtained and the individual, upon  
11 request, refuses to make allegations under oath in the form of an  
12 affidavit, signed and sworn to, the department may investigate the  
13 allegations but shall bring charges against the peace officer only if the  
14 department can independently substantiate the allegations absent the  
15 sworn statement of the complainant; and

16 4. Nothing in this section shall preclude a department from investigating  
17 and charging an officer both criminally and administratively;

18 (b) No threats, promises, or coercions shall be used at any time against any  
19 peace officer while he or she is a suspect in a criminal or departmental  
20 matter. Suspension from duty with or without pay, or reassignment to other  
21 than an officer's regular duties during the period, shall not be deemed  
22 coercion. Prior to or within twenty-four (24) hours after suspension of the  
23 officer pending investigation or disposition of a complaint, the officer shall  
24 be advised in writing of the reasons for the suspension;

25 (c) No peace officer shall be subjected to interrogation in a departmental  
26 matter involving alleged misconduct on his or her part, until forty-eight (48)  
27 hours have expired from the time the request for interrogation is made to

1 the accused officer, in writing. The interrogation shall be conducted while  
2 the officer is on duty. The peace officer may be required to submit a written  
3 report of the alleged incident if the request is made by the department no  
4 later than the end of the subject officer's next tour of duty after the tour of  
5 duty during which the department initially was made aware of the charges;

6 (d) If a peace officer is under arrest, likely to be arrested, or is a suspect in any  
7 criminal investigation, he or she shall be afforded the same constitutional  
8 due process rights that are accorded to any civilian, including but not  
9 limited to the right to remain silent and the right to counsel, and shall be  
10 notified of those rights before any questioning commences. Nothing in this  
11 section shall prevent the suspension with or without pay or reassignment of  
12 the peace officer pending disposition of the charges;

13 (e) Any charge involving violation of any consolidated local government rule or  
14 regulation shall be made in writing with sufficient specificity so as to fully  
15 inform the peace officer of the nature and circumstances of the alleged  
16 violation in order that he or she may be able to properly defend himself or  
17 herself. The charge shall be served on the peace officer in writing;

18 (f) When a peace officer has been charged with a violation of departmental  
19 rules or regulations, no public statements shall be made concerning the  
20 alleged violation by any person or persons of the consolidated local  
21 government or the peace officer so charged until final disposition of the  
22 charges;

23 (g) No peace officer, as a condition of continued employment by the  
24 consolidated local government, shall be compelled to speak, testify, or be  
25 questioned by any person or body of a nongovernmental nature; and

26 (h) When a hearing is to be conducted by any appointing authority, legislative  
27 body, or other body as designated by the Kentucky Revised Statutes, the

1 following administrative due process rights shall be recognized and these  
2 shall be the minimum rights afforded any peace officer charged:

3 1. The accused peace officer shall have been given at least seventy-two  
4 (72) hours' notice of any hearing;

5 2. Copies of any sworn statements or affidavits to be considered by the  
6 hearing authority and any exculpatory statements or affidavits shall be  
7 furnished to the peace officer no less than seventy-two (72) hours  
8 prior to the time of any hearing;

9 3. If any hearing is based upon a complaint of an individual, the  
10 individual shall be notified to appear at the time and place of the  
11 hearing by certified mail, return receipt requested;

12 4. If the return receipt has been returned unsigned, or the individual  
13 does not appear, except where due to circumstances beyond his or her  
14 control, at the time and place of the hearing, any charge made by that  
15 individual shall not be considered by the hearing authority and shall  
16 be dismissed with prejudice;

17 5. The accused peace officer shall have the right and opportunity to  
18 obtain and have counsel present and to be represented by the counsel;

19 6. The appointing authority, legislative body, or other body as designated  
20 by the Kentucky Revised Statutes shall subpoena and require the  
21 attendance of witnesses and the production by them of books, papers,  
22 records, and other documentary evidence at the request of the accused  
23 peace officer or the charging party. If any person fails or refuses to  
24 appear under the subpoena, testify, attend, or produce the books,  
25 papers, records, or other documentary evidence lawfully required, the  
26 appointing authority, legislative body, or other body as designated by  
27 the Kentucky Revised Statutes may report to the Circuit Court or any

1 judge thereof the failure or refusal, and apply for an order compelling  
2 the appearance of witnesses or production of evidence. The Circuit  
3 Court or any judge thereof may, on the application, compel obedience  
4 by proceedings for contempt as in the case of disobedience of the  
5 requirements of a subpoena issued from the court;

6 7. The accused peace officer shall be allowed to present witnesses and  
7 any documentary evidence the peace officer wishes to provide to the  
8 hearing authority, and may cross-examine all witnesses called by the  
9 charging party;

10 8. For any peace officer suspended with or without pay who is not given  
11 a hearing as provided by this section within sixty (60) days of any  
12 charge being filed, the charge shall be dismissed with prejudice, not be  
13 considered by any hearing authority, and the officer shall be  
14 reinstated with full back pay and benefits; and

15 9. The failure to provide any of the rights or to follow the provisions of  
16 this section may be raised by the officer with the hearing authority.  
17 The hearing authority shall not exclude proffered evidence based on  
18 failure to follow the requirements of this section but shall consider  
19 whether, because of the failure, the proffered evidence lacks weight or  
20 credibility and whether the officer has been materially prejudiced.

21 (2) Any peace officer who is found guilty by any hearing authority of any charge  
22 may bring an action in the Circuit Court in the county in which the consolidated  
23 local government is located to contest the action of that hearing authority, and  
24 the action shall be tried as an original action by the court.

25 (3) The judgment of the Circuit Court shall be subject to appeal to the Court of  
26 Appeals. The procedure as to appeal to the Court of Appeals shall be the same as  
27 in any civil action. As the provisions of this section relate to a minimum system of

1 professional conduct, nothing in this section shall be construed as limiting or in  
2 any way affecting any rights previously afforded to peace officers of the  
3 consolidated local government by statute, ordinance, or working agreement.

4 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 67B IS CREATED TO  
5 READ AS FOLLOWS:

6 (1) For the purposes of this section, "critical incident" means any event that has a  
7 stressful impact sufficient enough to overwhelm a peace officer's usual coping  
8 strategies. These events may include:

9 (a) An officer-involved shooting;

10 (b) A vehicle crash resulting in serious injury or death to an officer or citizen;

11 (c) An officer being the victim of a felonious assault;

12 (d) Death of a colleague or partner;

13 (e) Death of, or serious injury to, a person in the custody of the officer;

14 (f) Severe injury to, or death of, a child, particularly if the officer has a child of  
15 or near the same age; or

16 (g) An incident involving multiple deaths or injuries in a short period of time.

17 (2) Any peace officer involved directly in a critical incident may take up to forty-eight  
18 (48) hours of leave immediately following a critical incident. This leave may  
19 commence upon:

20 (a) The completion of that peace officer's shift encompassing the critical  
21 incident, or when all necessary administrative procedures relating to a  
22 critical incident have been completed; and

23 (b) The officer informing his or her supervisor.

24 (3) This leave may be unpaid or paid leave. The pay status shall be determined by the  
25 officer's employment contract, collective labor agreement, if any, or by written  
26 departmental policy.

27 (4) This section shall not be construed to set aside any employment contract, labor



1        *agreement, or departmental policies that grant more than forty-eight (48) hours*  
2        *of leave following an officer involved critical incident.*