

1 AN ACT relating to human trafficking.

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

3 ➔Section 1. KRS 529.160 is amended to read as follows:

- 4 (1) **(a)** When a person is charged or convicted under this chapter, or with an offense
5 which is not a violent crime as defined in KRS 17.165, and the person's
6 participation in the offense is determined to be the~~direct~~ result of being a
7 victim of human trafficking, the person may **file**~~make~~ a motion in the court
8 in which the charges were filed to expunge all records of the offense **and to**
9 **vacate the conviction.**
- 10 **(b) 1. Any person filing a motion under this section may request to seal the**
11 **record.**
- 12 **2. The clerk shall immediately seal the record which shall remain sealed**
13 **until the court rules upon the request.**
- 14 **3. If the court grants the request to seal the record, the motion and any**
15 **related papers or pleadings shall be filed under seal and remain sealed**
16 **unless opened by a higher court.**
- 17 **(2) (a) Upon the filing of the motion provided for in subsection (1)(a) of this**
18 **section, the Circuit Court clerk shall serve a notice of filing upon the office**
19 **of the Commonwealth's attorney or county attorney that prosecuted the case**
20 **and the county attorney of the county where the judgment was entered.**
- 21 **(b) The office of the Commonwealth's attorney or county attorney that**
22 **prosecuted the case shall file a response within twenty-one (21) days after**
23 **being served with the notice of filing.**
- 24 **(c) The response may include a request for a hearing that includes the grounds**
25 **for the requested hearing.**
- 26 **(d) If the court determines that a hearing is necessary, the court shall set a date**
27 **for the hearing, which shall be held no later than thirty (30) days after the**

1 filing of the response.

2 (e) Any hearing relating to the motion shall be closed if the court has sealed the
3 record or upon agreement of the parties. The person who filed the motion
4 may waive his or her right to be present at any hearing held under this
5 section if he or she is represented by counsel.

6 (f) Any person filing a motion under this section may submit supporting
7 documents, exhibits, or other evidence.

8 (g) No official determination or documentation shall be required to find that
9 the person's participation in the offense was a result of being a victim of
10 human trafficking, but documentation from a federal, state, local, or tribal
11 governmental agency indicating that the defendant was a victim at the time
12 of the offense shall create a presumption that the defendant's participation
13 in the offense was a result of being a victim of human trafficking.

14 (h) If the court finds, based upon a preponderance of the evidence, that the
15 person's participation in the offense is the result of being a victim of human
16 trafficking, then the court shall:

17 1. Order the judgment vacated;

18 2. Dismiss the charges with prejudice;

19 3. Order the case file to be sealed or remain sealed as ordered under
20 subsection (1)(b) of this section; and

21 4. Expunge the record pursuant to KRS 431.076(1)(a).

22 (3) This section shall be retroactive.

23 ~~{(2) The motion shall be filed no sooner than sixty (60) days following the date the final~~
24 ~~judgment was entered by the court in which the charges were filed.~~

25 ~~(3) (a) A motion filed under this section, any hearing conducted on the motion, and~~
26 ~~any relief granted are governed by KRS 431.076, 431.078, and 431.079 unless~~
27 ~~otherwise provided in this section.~~

1 ~~(b) For the purposes of expungement under KRS 431.076, a finding by the court~~
2 ~~that the person's participation in the offense was a direct result of being a~~
3 ~~victim of human trafficking shall deem the charges as dismissed with~~
4 ~~prejudice.~~

5 ~~[(c) No official determination or documentation is required to find that the~~
6 ~~person's participation in the offense was a direct result of being a victim of~~
7 ~~human trafficking, but documentation from a federal, state, local, or tribal~~
8 ~~governmental agency indicating that the defendant was a victim at the time of~~
9 ~~the offense shall create a presumption that the defendant's participation in the~~
10 ~~offense was a direct result of being a victim].~~