

AN ACT relating to domestic relations.

WHEREAS, we hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed; and

WHEREAS, whenever any Form or Branch of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it or the institutions it creates, and to institute a new Government or institution, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness; and

WHEREAS, the history of the Supreme Court of the United States is a history of repeated injuries and usurpations all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let the Facts be submitted to a candid world:

(1) The Supreme Court has refused their Assent to state Laws, the most wholesome and necessary for the public good;

(2) The Supreme Court has combined with others to subject us to a jurisdiction foreign to our state Constitution, and unacknowledged by our own laws, giving Assent to their Acts of pretended Legislation;

(3) For abolishing our most valuable Laws without constitutional foundation, and altering fundamentally the authority of our state Government and the traditional institution of marriage; and

(4) For invalidating a duly enacted provision of our state constitution and declaring themselves invested with power to legislate for us in all cases whatsoever;

THEREFORE, we, the Representatives of the Commonwealth of Kentucky, in General Assembly, appealing to the Supreme Judge of the world for the rectitude of our

intentions, do, in the Name, and by Authority of the good People of this Commonwealth, solemnly publish and declare, that this Commonwealth is, and of Right ought to be a Sovereign State, and that as a Sovereign State, we have full power to define marriage and to establish a new institution of matrimony in this Commonwealth and to do all other Acts and Things which a Sovereign State may of right do. And for the Support of this Matrimonial Freedom Act, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor;

NOW, THEREFORE,

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

➔SECTION 1. KRS CHAPTER 402A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 of this Act:

(1) "Marriage" means the legal relationship that is:

(a) Formed between two (2) individual human beings under Section 5 of this Act; or

(b) Recognized under Section 10(1)(b) or (2)(b)2. of this Act; and

(2) "Marriage partner" means an individual who:

(a) Has signed and submitted a declaration of marriage that was recorded in the office of a county clerk of this Commonwealth in accordance with Section 5 of this Act; or

(b) 1. Was validly married in this Commonwealth or another state;

2. Does not qualify to be deemed a party to a matrimony under Section 10(1)(a) or (2)(b)1. of this Act; and

3. Is recognized as married under Section 10(1)(b) or (2)(b)2. of this Act.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 402A IS CREATED TO READ AS FOLLOWS:

The Kentucky General Assembly finds that it is in the interest of the citizens of this

Commonwealth to establish and provide the parameters for the legal status of marriage.

→SECTION 3. A NEW SECTION OF KRS CHAPTER 402A IS CREATED TO READ AS FOLLOWS:

(1) Two (2) individual human beings may form a marriage if they satisfy each of the following criteria:

(a) Each individual is at least eighteen (18) years old and is capable of consenting to the marriage;

(b) Neither individual is currently married to or in a matrimonial relationship with another individual; and

(c) The two (2) individuals are not nearer of kin to each other by consanguinity, whether of the whole or half-blood, or by adoption than second cousins.

(2) Marriages prohibited by subsection (1)(c) of this section are incestuous and void.

→SECTION 4. A NEW SECTION OF KRS CHAPTER 402A IS CREATED TO READ AS FOLLOWS:

(1) Individuals who wish to form a marriage shall apply on or after January 1, 2017, for a declaration of marriage in an office of a county clerk in the Commonwealth.

(2) Except as provided in subsection (3) of this section, the county clerk shall not record a declaration of marriage form or issue a declaration of marriage until at least five (5) days after receiving the application for the declaration of marriage.

(3) The county clerk may, at his or her discretion, record a declaration of marriage form and issue a declaration of marriage in less than five (5) days after application if the applicant pays an additional fee of not more than ten dollars (\$10) to cover any increased processing costs incurred by the county. The county clerk shall pay all proceeds collected from the expedited service fee into the

county treasury.

- (4) No declaration of marriage form shall be recorded unless the application is:
- (a) Signed by both individuals intending to form the marriage; and
 - (b) Filed with the clerk who issues the declaration of marriage.
- (5) Each individual applying for a declaration of marriage shall present satisfactory documentary proof of identification and residence and shall affirm the authenticity of the information in the application before the county clerk who is to record the declaration of marriage. A Social Security number shall be requested as a means of identification of each party, but shall not be recorded on the declaration of marriage form or application. Other means of identification may also be requested if a party does not have a Social Security number. The Social Security number shall not be available for public release.
- (6) Each individual applying for a declaration of marriage shall present to the county clerk a certified copy of a birth certificate and a copy of any legal document which would affect his or her marital or matrimonial status, including but not limited to any judgment, death certificate, certificate or decree of dissolution of marriage or matrimony, divorce, annulment, or other valid termination of marriage or matrimony documentation. If any applicable birth certificate, death certificate, certificate or decree of dissolution of marriage or matrimony, divorce, annulment, or other valid termination of marriage or matrimony documentation is unobtainable, other satisfactory documentary proof may be presented. If a county clerk is not satisfied with the documentary proof presented, he or she shall submit the proof, for an opinion as to its sufficiency, to a judge of a court of competent jurisdiction in the county in which the application for declaration of marriage is filed.
- (7) If the requirements of this section and of Section 3 of this Act are met by the individuals applying for a declaration of marriage, the county clerk shall issue a

declaration of marriage form to the individuals.

(8) Neither the application nor the declaration of marriage form issued under this section shall contain the name, signature, or official title of the county clerk issuing the form.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 402A IS CREATED TO READ AS FOLLOWS:

(1) In order to form the legal status of marriage and receive a declaration of marriage, the individuals shall:

(a) Complete the declaration of marriage form provided by the county clerk;

(b) Sign the declaration of marriage form in the presence of a notary public who shall acknowledge the signatures;

(c) Submit the notarized declaration of marriage form to the county clerk of the county in which the individuals applied for the declaration of marriage; and

(d) Pay the required fee.

(2) Upon receiving a notarized declaration of marriage form and the required fee, the county clerk shall record the declaration of marriage and forward the original copy of the declaration of marriage form to the state registrar of vital statistics.

(3) The marriage shall take effect upon the recording of a completed declaration of marriage form in the office of the county clerk without solemnization.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 402A IS CREATED TO READ AS FOLLOWS:

(1) A marriage partner may terminate a marriage established pursuant to Section 5 of this Act by filing a completed notice of termination of marriage form with the county clerk who issued the declaration of marriage. The notice of termination of marriage form shall be signed by one (1) or both marriage partners and acknowledged by a notary public.

(2) If the notice of termination of marriage form is only signed by one (1) of the marriage partners, that individual shall also file an affidavit with the county clerk stating either of the following:

(a) The marriage partner who is not petitioning the county clerk for the termination of marriage has been served in writing a notice of the filing of the termination of marriage form with the county clerk; or

(b) The marriage partner who is seeking termination has been unable to locate the other marriage partner after making reasonable efforts.

(3) Upon receiving a completed, signed, and notarized notice of termination of marriage form and, if required, an affidavit under subsection (2) of this section, the county clerk shall issue to the marriage partner filing the notice of termination of marriage a certificate of termination of marriage. The marriage partner seeking termination of marriage shall submit the certificate of termination of marriage to the county clerk in the county in which the declaration of marriage is recorded. The county clerk shall record the certificate of termination of marriage and forward the original certificate to the state registrar of vital statistics. Neither the notice of termination of marriage nor the certificate of termination of marriage form shall contain the name, signature, or official title of the county clerk issuing or recording such forms.

(4) A termination of marriage shall be effective thirty (30) days after the certificate of termination of marriage is recorded under subsection (3) of this section.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 402A IS CREATED TO READ AS FOLLOWS:

(1) Except for the name, signature, or official title of the county clerk issuing such forms, the application and declaration of marriage forms and notice of termination of marriage form required under Sections 4, 5, and 6 of this Act shall contain such information as the state registrar of vital statistics deems necessary.

(2) The declaration of marriage form shall require both individuals forming a marriage to sign the form in the presence of a notary public and attest to satisfying the requirements set forth in Section 3 of this Act.

(3) The state registrar of vital statistics shall prepare the forms described in subsection (1) of this section and distribute the forms in sufficient quantities to each county clerk.

→SECTION 8. A NEW SECTION OF KRS CHAPTER 402A IS CREATED TO READ AS FOLLOWS:

A county clerk shall receive a fee for each declaration of marriage form that he or she records in the amount specified by Section 87 of this Act.

→SECTION 9. A NEW SECTION OF KRS CHAPTER 402A IS CREATED TO READ AS FOLLOWS:

The declaration of marriage shall be recorded in the county clerk's office. The county clerk shall keep in a record book a register of the parties' names and the date when the marriage was recorded, and shall keep an index to the book in which the register is made.

→SECTION 10. A NEW SECTION OF KRS CHAPTER 402A IS CREATED TO READ AS FOLLOWS:

(1) Individuals who are validly married in this Commonwealth or another state prior to the effective date of this Act shall be:

(a) Deemed parties to a matrimony as defined in Section 11 of this Act by operation of this statute if the married couple is composed of two (2) individuals of the opposite sex; or

(b) Recognized as marriage partners under Sections 1 to 10 of this Act, but shall not be deemed parties to a matrimony as defined in Section 11 of this Act, if the married couple is composed of two (2) individuals of the same sex.

(2) (a) Individuals who are validly married in this Commonwealth under Sections 1 to 10 of this Act on or after the effective date of this Act are not deemed parties to a matrimony as defined in Section 11 of this Act.

(b) Individuals who are validly married in another state on or after the effective date of this Act shall be:

1. Deemed parties to a matrimony as defined in Section 11 of this Act by operation of this statute if the married couple is composed of two (2) individuals of the opposite sex; or

2. Recognized as marriage partners under Sections 1 to 10 of this Act, but shall not be deemed parties to a matrimony as defined in Section 11 of this Act, if the married couple is composed of two (2) individuals of the same sex.

➔SECTION 11. KRS CHAPTER 402B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used and recognized in the law of the Commonwealth, "matrimony" refers only to the civil status, condition, or relation of one (1) male human being ("husband") and one (1) female human being ("wife") united in law for life, for the discharge to each other and the community of the duties legally incumbent upon those whose association is founded on the distinction of sex.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

(1) No matrimony shall be contracted between persons who are nearer of kin to each other by consanguinity, whether of the whole or half-blood, than second cousins.

(2) Matrimonies prohibited by subsection (1) of this section are incestuous and void.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

(1) Matrimony is prohibited and void:

- (a) With a person who has been adjudged mentally disabled by a court of competent jurisdiction;
- (b) Where there is a husband or wife living, from whom the person entering into a state of matrimony has not been divorced, or where there is a marriage partner living, from whom the person entering into a state of matrimony has not had the prior marriage terminated;
- (c) When not solemnized or contracted in the presence of an authorized person or society;
- (d) Between members of the same sex;
- (e) Between more than two (2) persons; and
- (f) 1. Except as provided in subparagraph 3. of this paragraph, when at the time of the matrimony, the person is under sixteen (16) years of age;
2. Except as provided in subparagraph 3. of this paragraph, when at the time of matrimony, the person is under eighteen (18) but over sixteen (16) years of age, if the matrimony is without the consent of:
- a. The father or the mother of the person under eighteen (18) but over sixteen (16), if the parents are parties to a matrimony, the parents are not legally separated, no legal guardian has been appointed for the person under eighteen (18) but over sixteen (16), and no court order has been issued granting custody of the person under eighteen (18) but over sixteen (16) to a party other than the father or mother;
- b. Both the father and the mother, if both be living and the parents are divorced or legally separated, and a court order of joint custody to the parents of the person under eighteen (18) but over sixteen (16) has been issued and is in effect;
- c. The surviving parent, if the parents were divorced or legally

separated, and a court order of joint custody to the parents of the person under eighteen (18) but over sixteen (16) was issued prior to the death of either the father or mother, which order remains in effect;

d. The custodial parent, as established by a court order which has not been superseded, where the parents are divorced or legally separated and joint custody of the person under eighteen (18) but over sixteen (16) has not been ordered; or

e. Another person having lawful custodial charge of the person under eighteen (18) but over sixteen (16); but

3. In case of pregnancy the male and female, or either of them, specified in subparagraph 1. or 2. of this paragraph, may apply to a District Judge for permission to enter into a matrimony, which application may be granted, in the form of a written court order, in the discretion of the judge. There shall be a fee of five dollars (\$5) for hearing each such application.

(2) For purposes of this section "parent," "father," or "mother" means the natural parent, father, or mother of a child under eighteen (18) unless an adoption takes place pursuant to legal process, in which case the adoptive parent, father, or mother shall be considered the parent, father, or mother to the exclusion of the natural parent, father, or mother, as applicable.

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

(1) Courts having general jurisdiction may declare void any matrimony obtained by force or fraud.

(2) At the instance of any next friend, courts having general jurisdiction may declare any matrimony void where the person was under eighteen (18) but over sixteen

(16) years of age at the time of the matrimony, and the matrimony was without the consent required by Section 13 of this Act and has not been ratified by cohabitation after the age of eighteen (18).

(3) At the instance of any next friend, courts having general jurisdiction may declare void any matrimony where:

(a) The person was under sixteen (16) years of age at the time of the matrimony;

(b) The matrimony was not conducted with the permission of a District Judge, as required by Section 13 of this Act., in the form of a written court order; and

(c) The matrimony has not been ratified by cohabitation after the person reached eighteen (18) years of age.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

If any resident of this state marries a member of the opposite sex in another state, the marriage shall be valid in this state and deemed as a matrimony pursuant to Section 10(1)(a) or (2)(b)1. of this Act if valid in the state where solemnized.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

(1) Matrimony shall be solemnized only by:

(a) Ministers of the gospel or priests of any denomination in regular communion with any religious society;

(b) Justices and judges of the Court of Justice, retired justices and judges of the Court of Justice except those removed for cause or convicted of a felony, county judges/executive, and such justices of the peace and fiscal court commissioners as the Governor or the county judge/executive authorizes; or

(c) A religious society that has no officiating minister or priest and whose

usage is to solemnize matrimony at the usual place of worship and by consent given in the presence of the society, if either party belongs to the society.

(2) At least two (2) persons, in addition to the parties and the person solemnizing the matrimony, shall be present at every matrimony.

→SECTION 17. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

No matrimony solemnized before any person professing to have authority therefor shall be invalid for the want of such authority, if it is consummated with the belief of the parties, or either of them, that he or she had authority and that they have lawfully entered into a state of matrimony.

→SECTION 18. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

No matrimony shall be solemnized without a license therefor. The license shall be issued by the clerk of the county in which the female resides at the time, unless the female is eighteen (18) years of age or over or a widow, and the license is issued on her application in person or by writing signed by her, in which case it may be issued by any county clerk.

→SECTION 19. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

(1) No person shall, for compensation or reward, solicit, persuade, entice, direct, or induce any persons to go before any person authorized to solemnize matrimony to enter into a matrimony. No such person shall receive for such services any part of the remuneration paid for solemnizing the matrimony.

(2) No person authorized to solemnize matrimony shall pay, give to, or divide or share with any other person any sum of money or other thing obtained by him or her for solemnizing matrimony.

(3) No person authorized to solemnize matrimony shall solicit, persuade, entice, direct, or induce any persons to come before him or her to enter into a state of matrimony.

→SECTION 20. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

Each county clerk shall use the form prescribed by the Department for Libraries and Archives when issuing a matrimony license. This form shall provide for the entering of all of the information required in this section, and may also provide for the entering of additional information prescribed by the Department for Libraries and Archives. The form shall consist of:

(1) A matrimony license which provides for the entering of:

(a) An authorization statement of the county clerk issuing the license for any person or religious society authorized to perform matrimony ceremonies to unite in matrimony the persons named;

(b) Vital information for each party, including the full name, date of birth, place of birth, race, condition (single, widowed, or divorced), number of previous matrimonial relationships or marriages, occupation, current residence, relationship to the other party, and full names of parents; and

(c) The date and place the license is issued, and the signature of the county clerk or deputy clerk issuing the license;

(2) A matrimony certificate which provides for the entering of:

(a) A statement by the person performing the matrimony ceremony or the clerk of the religious society authorized to solemnize the matrimony ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony or the name of the religious society solemnizing the matrimony, the names of persons who entered a state of matrimony, the date and place of the matrimony, and the names of

two (2) witnesses;

(b) A statement by the person performing the matrimony ceremony of his or her legal qualification under this chapter to perform the ceremony, such statement to include the name of the county or city where his or her license to perform matrimony ceremonies was issued or, in the case of religious societies authorized by Section 16 of this Act to solemnize matrimonies, the name of the city or county where the religious society is incorporated. The provisions of this paragraph shall not be construed to require the clerk of a religious society to be present at the matrimony so long as the witnesses of the society are present;

(c) A dated signature of the person performing the ceremony; and

(d) A signed statement by the county clerk or a deputy county clerk of the county in which the matrimony license was issued that the matrimony certificate was recorded. The statement shall indicate the name of the county and the date the matrimony certificate was recorded;

(3) A certificate to be delivered by the person performing the matrimony ceremony or the clerk of the religious society performing the matrimony ceremony to the parties married. This certificate shall provide for the entering of:

(a) A statement by the person performing the matrimony ceremony or the clerk of the religious society performing the matrimony ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony, or the name of the religious society performing the ceremony, the names of persons who entered into a state of matrimony, the date and place of the matrimony, the names of two (2) witnesses, and the following information as recorded on the license authorizing the matrimony:

1. The date the license was issued;

2. The name of the county clerk under whose authority the license was issued; and

3. The county in which the license was issued; and

(b) A dated signature of the person performing the ceremony or the clerk of the religious society performing the ceremony; and

(4) A Social Security number shall be requested as a means of identification of each party but shall not be recorded on the matrimony license or certificate. Other means of identification may also be requested if a party does not have a Social Security number. The Social Security number shall be forwarded to the appropriate agency within the Cabinet for Health and Family Services that is responsible for enforcing child support, and the number shall be stored by that agency with a nonidentifying numeric identifier. The Social Security number shall not be available for public release.

➔SECTION 21. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

A matrimony license shall be valid for thirty (30) days, including the date it is issued, and after that time it shall be invalid.

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

The form of matrimony license prescribed in Section 20 of this Act shall be uniform throughout this state, and every license blank shall contain the identical words and figures provided in the form prescribed by that section. In issuing the license the clerk shall deliver it in its entirety to the licensee. The clerk shall ensure that every blank space required to be filled by the applicants is so filled before delivering it to the licensee.

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

(1) If either of the parties is under eighteen (18) but over sixteen (16) years of age and has never entered into matrimony before, no license shall issue without the consent required by Section 13 of this Act, personally given or certified in writing to the clerk over the signature of the person consenting in accordance with Section 13 of this Act, attested by two (2) subscribing witnesses and proved by the oath of one (1) of the witnesses, administered by the clerk. If the parties are personally unknown to the clerk, a license shall not issue until bond, with good surety, in the penalty of one hundred dollars (\$100) is given to the Commonwealth, with condition that there is no lawful cause to obstruct the matrimony.

(2) If either of the parties is under sixteen (16) years of age, no license shall issue without the permission of a District Judge, as required by Section 13 of this Act, in the form of a certified copy of a written court order.

→SECTION 24. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

The person solemnizing the matrimony or the clerk of the religious society before which it was solemnized shall within one (1) month return the license to the county clerk of the county in which it was issued, with a certificate of the matrimony over his or her signature, giving the date and place of celebration and the names of at least two (2) of the persons present.

→SECTION 25. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

The certificate shall be filed in the county clerk's office. The county clerk shall keep in a record book a fair register of the parties' names, the person by whom, or the religious society by which, the matrimony was solemnized, and the date when the matrimony was solemnized, and the clerk shall keep an index to the book in which the register is made.

→SECTION 26. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

In the absence of the county clerk, or during a vacancy in the office, the county judge/executive may issue the license and, in so doing, he or she shall perform the duties and incur all the responsibilities of the clerk. The county judge/executive shall return a memorandum thereof to the clerk, and the memorandum shall be recorded as if the license had been issued by the clerk.

→SECTION 27. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

Where doubt is felt as to the validity of a matrimony, either party may, by petition in Circuit Court, demand its avoidance or affirmance; but where one (1) of the parties was under the age of consent at the time of matrimony, the party who is of proper age may not bring such a proceeding for that cause against the party under age.

→SECTION 28. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

If any person under eighteen (18) years of age enters into matrimony without the consent required by Section 13 of this Act, the court having general jurisdiction in the county of his or her residence shall, on the petition of a next friend, commit his or her estate to a receiver, who, upon giving bond, shall hold his or her estate and, after deducting a reasonable compensation for his or her services, pay out the rents and profits to his or her separate use during his or her infancy, under the direction of the court. When the person arrives at the age of eighteen (18), the receiver shall deliver his or her estate to him or her, unless the court considers it for his or her benefit to continue it in the hands of the receiver.

→SECTION 29. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

(1) The Human Resources Coordinating Commission of Kentucky shall prepare a

matrimony manual for distribution to all applicants for a matrimony license. The manual shall include but not be limited to material on family planning, proper health and sanitation practices, nutrition, consumer economics, and the legal responsibilities of spouses to each other and as parents to their children.

(2) When the manual is approved it shall be printed by the Human Resources Coordinating Commission. Copies of the manual shall be sent to the county clerk of each county. Each county clerk shall give a copy to each applicant for a matrimony license.

→SECTION 30. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

Sections 30 to 32 of this Act may be cited as the Kentucky Sickle Cell Disease Detection Act of 1972.

→SECTION 31. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

Every physician examining applicants for a matrimony license may obtain an appropriate blood specimen from each applicant and forward it to the Division of Laboratory Services, Cabinet for Health and Family Services, or to a laboratory approved by the cabinet, to ascertain the existence or nonexistence of sickle cell trait or sickle cell disease, or any other genetically transmitted disease which affects hemoglobin. If the laboratory tests indicate that both applicants are carriers of a trait or disease, the physician may provide genetic counseling or refer the applicants to the cabinet or to an agency approved by the cabinet for such counseling.

→SECTION 32. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

The secretary for health and family services shall promulgate administrative regulations for the proper administration and enforcement of Sections 30 to 32 of this Act.

➔SECTION 33. A NEW SECTION OF KRS CHAPTER 402B IS CREATED TO READ AS FOLLOWS:

- (1) Any party to a matrimony prohibited by Section 12 of this Act shall be guilty of a Class B misdemeanor. If the parties continue after conviction to cohabit as man and wife, either or both of them shall be guilty of a Class A misdemeanor.
- (2) Any person who aids or abets the matrimony of any person who has been adjudged mentally disabled, or attempts to marry, or aids or abets any attempted matrimony with any such person shall be guilty of a Class B misdemeanor.
- (3) Any authorized person who knowingly solemnizes a matrimony prohibited by this chapter shall be guilty of a Class A misdemeanor.
- (4) Any unauthorized person who solemnizes a matrimony under pretense of having authority, and any person who falsely personates the father, mother, or guardian of an applicant in obtaining a license shall be guilty of a Class D felony.
- (5) Any person who falsely and fraudulently represents or personates another, and in such assumed character enters into matrimony with that person, shall be guilty of a Class D felony. Indictment under this subsection shall be found only upon complaint of the injured party and within two (2) years after the commission of the offense.
- (6) Any clerk who knowingly issues a matrimony license to any persons prohibited by this chapter from entering into matrimony shall be guilty of a Class A misdemeanor and removed from office by the judgment of the court in which he or she is convicted.
- (7) Any clerk who knowingly issues a matrimony license in violation of his or her duty under this chapter shall be guilty of a Class A misdemeanor.
- (8) If any deputy clerk or any person other than a county clerk knowingly issues a matrimony license in violation of this chapter, but not for a prohibited matrimony, he or she shall be guilty of a Class A misdemeanor, and if he or she

knowingly issues a license for a matrimony prohibited by this chapter, he or she shall be guilty of a Class A misdemeanor.

(9) Any person who violates any of the provisions of Section 19 of this Act shall be guilty of a violation.

(10) Any county clerk who violates any of the provisions of Section 22 or 25 of this Act shall be guilty of a violation.

(11) Any person failing to make the return required of him or her by Section 24 of this Act shall be guilty of a violation.

→Section 34. KRS 403.010 is amended to read as follows:

A jury shall not be impaneled in any action for divorce, alimony or maintenance, but courts having general jurisdiction may grant a divorce for the cause set out in this chapter. A decree of dissolution of *matrimony*~~[marriage]~~ authorizes either party to *enter into matrimony*~~[marry]~~ again.

→Section 35. KRS 403.025 is amended to read as follows:

- (1) The statements of a petition for dissolution of *matrimony*~~[marriage]~~ concerning the residence of the parties and irretrievable breakdown of the *matrimony*~~[marriage]~~ shall not be taken as true because of the respondent's failure to deny the statements, and the facts as to residence of the parties must be proved by one (1) or more credible witnesses.
- (2) The petitioner or respondent in an action for dissolution of *matrimony*~~[marriage]~~ may be considered a credible witness, within the meaning of subsection (1) of this section, to be utilized in order to prove residency of the parties. The provisions of this subsection shall be retroactive in effect.

→Section 36. KRS 403.044 is amended to read as follows:

In divorce actions in which there are minor children who are the issue of the *matrimony*~~[marriage]~~ no testimony other than on temporary motions shall be taken or heard before sixty (60) days have elapsed from the date of service of summons, the

appointment of a warning order attorney or the filing of an entry of appearance or a responsive pleading by the defendant, whichever occurs first.

→Section 37. KRS 403.050 is amended to read as follows:

Divorce from bed and board may be rendered for any cause that allows divorce, or for any other cause that the court in its discretion considers sufficient. A divorce from bed and board shall operate as to property thereafter acquired, and upon the personal rights and legal capacities of the parties, as a divorce from the bond of matrimony, except that neither shall **enter into matrimony**~~[marry]~~ again during the life of the other, and except that it shall not bar curtesy, dower or distributive right. The judgment may be revised or set aside at any time by the court rendering it.

→Section 38. KRS 403.110 is amended to read as follows:

This chapter shall be liberally construed and applied to promote its underlying purposes, which are to:

- (1) Strengthen and preserve the integrity of **matrimony**~~[marriage]~~ and safeguard family relationships;
- (2) Promote the amicable settlement of disputes that have arisen between parties to a **matrimony**~~[marriage]~~;
- (3) Mitigate the potential harm to the spouses and their children caused by the process of legal dissolution of **matrimony**~~[marriage]~~;
- (4) Make reasonable provision for spouse and minor children during and after litigation; and
- (5) Make the law of legal dissolution of **matrimony**~~[marriage]~~ effective for dealing with the realities of matrimonial experience by making irrevocable breakdown of the **matrimonial**~~[marriage]~~ relationship the sole basis for its dissolution.

→Section 39. KRS 403.120 is amended to read as follows:

- (1) The Circuit Court shall enter its decree declaring the invalidity of a **matrimony**~~[marriage]~~ entered into under the following circumstances:

- (a) A party lacked capacity to consent to the matrimony[marriage] at the time the matrimony[marriage] was solemnized, either because of mental incapacity or deformity or because of the influence of alcohol, drugs, or other incapacitating substances, or a party was induced to enter into a matrimony[marriage] by force or duress, or by fraud involving the essentials of matrimony[marriage];
 - (b) A party lacks the physical capacity to consummate the matrimony[marriage] by sexual intercourse, and the other party did not at the time the matrimony[marriage] was solemnized know of the incapacity;
 - (c) The matrimony[marriage] is prohibited.
- (2) A declaration of invalidity under paragraph (a), (b) or (c) of subsection (1) may be sought by any of the following persons and must be commenced within the times specified, but only for the causes set out in paragraph (a) may a declaration of invalidity be sought after the death of either party to the matrimony[marriage]:
- (a) For a reason set forth in paragraphs (a) and (b) of subsection (1), by party or by the legal representative of the party who lacked capacity to consent, who was the offended party or did not know of the incapacity, no later than 90 days after the petitioner obtained knowledge of the described condition; and
 - (b) For the reason set forth in paragraph (c) of subsection (1), by either party, no later than one (1) year after the petitioner obtained knowledge of the described condition.

➔Section 40. KRS 403.130 is amended to read as follows:

- (1) The Rules of Civil Procedure apply to all proceedings under this chapter, except as otherwise provided in this chapter.
- (2) A proceeding for dissolution of matrimony[marriage], legal separation, or declaration of invalidity of matrimony[marriage] shall be entitled "In re the Matrimony[Marriage] of and" A custody or support proceeding shall be entitled "In re the (Custody) (Support) of"

- (3) The initial pleading in all proceedings under this chapter shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under this chapter, shall be denominated as provided in the Rules of Civil Procedure.
- (4) In this chapter, "decree" includes "judgment."
- (5) A decree of dissolution or of legal separation, if made, shall not be awarded to one (1) of the parties, but shall provide that it affects the status previously existing between the parties in the manner decreed.

➔Section 41. KRS 403.140 is amended to read as follows:

- (1) The Circuit Court shall enter a decree of dissolution of matrimony~~[marriage]~~ if:
 - (a) The court finds that one (1) of the parties, at the time the action was commenced, resided in this state, or was stationed in this state while a member of the armed services, and that the residence or military presence has been maintained for 180 days next preceding the filing of the petition;
 - (b) The court finds that the conciliation provisions of KRS 403.170 either do not apply or have been met;
 - (c) The court finds that the matrimony~~[marriage]~~ is irretrievably broken; and
 - (d) To the extent it has jurisdiction to do so, the court has considered, approved or made provision for child custody, the support of any child of the matrimony~~[marriage]~~ entitled to support, the maintenance of either spouse, and the disposition of property.
- (2) If a party requests a decree of legal separation rather than a decree of dissolution of matrimony~~[marriage]~~, the court shall grant the decree in that form unless the other party objects, in which latter event the other provisions of this chapter shall apply.

➔Section 42. KRS 403.150 is amended to read as follows:

- (1) All proceedings under this chapter are commenced in the manner provided by the Rules of Civil Procedure.

- (2) The verified petition in a proceeding for dissolution of matrimony~~[marriage]~~ or legal separation shall allege the matrimony~~[marriage]~~ is irretrievably broken and shall set forth:
- (a) The age, occupation, Social Security number, and residence of each party, provided in accordance with KRS 403.135, and his length of residence in this state. If domestic violence and abuse, as defined in KRS 403.720, is alleged by either party, the party filing the petition shall certify the existence and status of any domestic violence protective orders. The party filing the petition and alleging the abuse may substitute the party's attorney's address as the address of the party and any minor children;
 - (b) The date of the matrimony~~[marriage]~~ and the place at which it was registered;
 - (c) That the parties are separated and the date on which the parties separated;
 - (d) The names, ages, Social Security numbers, and addresses, provided in accordance with KRS 403.135, of any living infant children of the matrimony~~[marriage]~~, and whether the wife is pregnant;
 - (e) Any arrangements as to custody, visitation, and support of the children and the maintenance of a spouse; and
 - (f) The relief sought.
- (3) Either or both parties to the matrimony~~[marriage]~~ may initiate the proceeding.
- (4) If a proceeding is commenced by one (1) of the parties, the other party must be served in the manner provided by the Rules of Civil Procedure and may file a verified response.
- (5) Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.
- (6) The court may join additional parties proper for the exercise of its authority to implement this chapter.

- (7) When the wife is pregnant at the time the petition is filed, the court may continue the case until the pregnancy is terminated.

➔Section 43. KRS 403.160 is amended to read as follows:

- (1) In a proceeding for dissolution of matrimony~~[marriage]~~ or for legal separation, or in a proceeding for disposition of property or for maintenance or support following dissolution of the matrimony~~[marriage]~~ by a court which lacked personal jurisdiction over the absent spouse, either party may move for temporary maintenance. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.
- (2) (a) In a proceeding for dissolution of matrimony~~[marriage]~~, legal separation, or child support, either party, with notice to the opposing party, may move for temporary child support. The motion shall be accompanied by an affidavit setting forth the number of children of the matrimony~~[marriage]~~ and the information required to calculate the combined adjusted parental gross income set forth in KRS 403.212(2)(g), and the Social Security numbers, provided in accordance with KRS 403.135, of all parties subject to the motion. The court shall, within fourteen (14) days from the filing of said motion, order an amount of temporary child support based upon the child support guidelines as provided by law, and the ordered child support shall be retroactive to the date of the filing of the motion unless otherwise ordered by the court.
- (b) Upon a showing of good cause, either party may move the court to enter an order for temporary child support without written or oral notice to the adverse party. After reviewing the affidavit required by paragraph (a) of this subsection, the court may issue a temporary child support order based upon the child support guidelines. The order shall provide that the order becomes effective seven (7) days following service of the order and movant's affidavit upon the adverse party unless the adverse party, within the seven (7) day

period, files a motion for a hearing before the court. The motion for hearing shall be accompanied by the affidavit required by paragraph (a) of this subsection. Pending the hearing, the adverse party shall pay child support in an amount based upon the guidelines and the adverse party's affidavit. The child support order entered following the hearing shall be retroactive to the date of the filing of the motion for temporary support unless otherwise ordered by the court.

- (3) As part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary injunction or restraining order pursuant to the Rules of Civil Procedure.
- (4) If the court or agent of the court is made aware that there is reasonable evidence of domestic violence or child abuse, the court shall determine whether disclosure to any other person of the information could be harmful to the parent or child, and if the court determines that disclosure to any person could be harmful, the court and its agents shall not make the disclosure.
- (5) On the basis of the showing made and in conformity with KRS 403.200, the court may issue a temporary injunction or restraining order and an order for temporary maintenance in amounts and on terms just and proper in the circumstances.
- (6) A temporary order or temporary injunction:
 - (a) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding;
 - (b) May be revoked or modified before final decree on a showing of the facts necessary to revocation or modification under the circumstances; and
 - (c) Terminates when the final decree is entered or when the petition for dissolution or legal separation is voluntarily dismissed.

➔Section 44. KRS 403.170 is amended to read as follows:

- (1) If both of the parties by petition or otherwise have stated under oath or affirmation

that the matrimony~~[marriage]~~ is irretrievably broken, or one (1) of the parties has so stated and the other has not denied it, the court, after hearing, shall make a finding whether the matrimony~~[marriage]~~ is irretrievably broken. No decree shall be entered until the parties have lived apart for one hundred eighty (180)~~[60]~~ days. Living apart shall include living under the same roof without sexual cohabitation. The court may order a conciliation conference as a part of the hearing.

- (2) If one (1) of the parties has denied under oath or affirmation that the matrimony~~[marriage]~~ is irretrievably broken, the court shall consider all relevant factors, including the circumstances that gave rise to filing the petition and the prospect of reconciliation, and shall:
- (a) Make a finding whether the matrimony~~[marriage]~~ is irretrievably broken; or
 - (b) Continue the matter for further hearing not fewer than thirty (30) nor more than sixty (60) days later, or as soon thereafter as the matter may be reached on the court's calendar, and may suggest to the parties that they seek counseling. The court, at the request of either party shall, or on its own motion may, order a conciliation conference. At the adjourned hearing the court shall make a finding whether the matrimony~~[marriage]~~ is irretrievably broken.
- (3) A finding of irretrievable breakdown is a determination that there is no reasonable prospect of reconciliation.

➔Section 45. KRS 403.180 is amended to read as follows:

- (1) To promote amicable settlement of disputes between parties to a matrimony~~[marriage]~~ attendant upon their separation or the dissolution of their matrimony~~[marriage]~~, the parties may enter into a written separation agreement containing provisions for maintenance of either of them, disposition of any property owned by either of them, and custody, support and visitation of their children.
- (2) In a proceeding for dissolution of matrimony~~[marriage]~~ or for legal separation, the terms of the separation agreement, except those providing for the custody, support,

and visitation of children, are binding upon the court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence produced by the parties, on their own motion or on request of the court, that the separation agreement is unconscionable.

- (3) If the court finds the separation agreement unconscionable, it may request the parties to submit a revised separation agreement or may make orders for the disposition of property, support, and maintenance.
- (4) If the court finds that the separation agreement is not unconscionable as to support, maintenance, and property:
 - (a) Unless the separation agreement provides to the contrary, its terms shall be set forth verbatim or incorporated by reference in the decree of dissolution or legal separation and the parties shall be ordered to perform them; or
 - (b) If the separation agreement provides that its terms shall not be set forth in the decree, the decree shall identify the separation agreement and state that the court has found the terms not unconscionable.
- (5) Terms of the agreement set forth in the decree are enforceable by all remedies available for enforcement of a judgment, including contempt, and are enforceable as contract terms.
- (6) Except for terms concerning the support, custody, or visitation of children, the decree may expressly preclude or limit modification of terms if the separation agreement so provides. Otherwise, terms of a separation agreement are automatically modified by modification of the decree.

➔Section 46. KRS 403.190 is amended to read as follows:

- (1) In a proceeding for dissolution of the matrimony~~[marriage]~~ or for legal separation, or in a proceeding for disposition of property following dissolution of the matrimony~~[marriage]~~ by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall assign each

spouse's property to him *or her*. It also shall divide the matrimonial~~[marital]~~ property without regard to matrimonial~~[marital]~~ misconduct in just proportions considering all relevant factors, including:

- (a) Contribution of each spouse to acquisition of the matrimonial~~[marital]~~ property, including contribution of a spouse as homemaker;
 - (b) Value of the property set apart to each spouse;
 - (c) Duration of the matrimony~~[marriage]~~; and
 - (d) Economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse having custody of any children.
- (2) For the purpose of this chapter, "matrimonial~~[marital]~~ property" means all property acquired by either spouse subsequent to the matrimony~~[marriage]~~ except:
- (a) Property acquired by gift, bequest, devise, or descent during the matrimony~~[marriage]~~ and the income derived therefrom unless there are significant activities of either spouse which contributed to the increase in value of said property and the income earned therefrom;
 - (b) Property acquired in exchange for property acquired before the matrimony~~[marriage]~~ or in exchange for property acquired by gift, bequest, devise, or descent;
 - (c) Property acquired by a spouse after a decree of legal separation;
 - (d) Property excluded by valid agreement of the parties; and
 - (e) The increase in value of property acquired before the matrimony~~[marriage]~~ to the extent that such increase did not result from the efforts of the parties during matrimony~~[marriage]~~.
- (3) All property acquired by either spouse after the matrimony~~[marriage]~~ and before a decree of legal separation is presumed to be matrimonial~~[marital]~~ property,

regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, and community property. The presumption of matrimonial~~[marital]~~ property is overcome by a showing that the property was acquired by a method listed in subsection (2) of this section.

- (4) If the retirement benefits of one (1) spouse are excepted from classification as matrimonial~~[marital]~~ property, or not considered as an economic circumstance during the division of matrimonial~~[marital]~~ property, then the retirement benefits of the other spouse shall also be excepted, or not considered, as the case may be. However, the level of exception provided to the spouse with the greater retirement benefit shall not exceed the level of exception provided to the other spouse. Retirement benefits, for the purposes of this subsection shall include retirement or disability allowances, accumulated contributions, or any other benefit of a retirement system or plan regulated by the Employees Retirement Income Security Act of 1974, or of a public retirement system administered by an agency of a state or local government, including deferred compensation plans created pursuant to KRS 18A.230 to 18A.275 or defined contribution or money purchase plans qualified under Section 401(a) of the Internal Revenue Code of 1954, as amended.

➔Section 47. KRS 403.200 is amended to read as follows:

- (1) In a proceeding for dissolution of matrimony~~[marriage]~~ or legal separation, or a proceeding for maintenance following dissolution of a matrimony~~[marriage]~~ by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse only if it finds that the spouse seeking maintenance:
- (a) Lacks sufficient property, including matrimonial~~[marital]~~ property apportioned to him, to provide for his reasonable needs; and
 - (b) Is unable to support himself through appropriate employment or is the

custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.

- (2) The maintenance order shall be in such amounts and for such periods of time as the court deems just, and after considering all relevant factors including:
 - (a) The financial resources of the party seeking maintenance, including matrimonial~~marital~~ property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;
 - (b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;
 - (c) The standard of living established during the matrimony~~marriage~~;
 - (d) The duration of the matrimony~~marriage~~;
 - (e) The age, and the physical and emotional condition of the spouse seeking maintenance; and
 - (f) The ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance.

➔Section 48. KRS 403.211 is amended to read as follows:

- (1) An action to establish or enforce child support may be initiated by the parent, custodian, or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.
- (2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in KRS 403.212 shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the

record by the court, specifying the reason for the deviation.

- (3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:
- (a) A child's extraordinary medical or dental needs;
 - (b) A child's extraordinary educational, job training, or special needs;
 - (c) Either parent's own extraordinary needs, such as medical expenses;
 - (d) The independent financial resources, if any, of the child or children;
 - (e) Combined monthly adjusted parental gross income in excess of the Kentucky child support guidelines;
 - (f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount. However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the Federal Social Security Act; and
 - (g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.
- (4) "Extraordinary" as used in this section shall be determined by the court in its discretion.
- (5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which

would have established a higher amount of child support pursuant to the child support guidelines set forth in KRS 403.212.

- (6) The court shall allocate between the parents, in proportion to their combined monthly adjusted parental gross income, reasonable and necessary child care costs incurred due to employment, job search, or education leading to employment, in addition to the amount ordered under the child support guidelines.
- (7) (a) If private health care insurance coverage is reasonable in cost and accessible to either parent at the time the request for coverage is made, the court shall order the parent to obtain or maintain coverage, and the court shall allocate between the parents, in proportion to their combined monthly adjusted parental gross income, the cost of health care insurance coverage for the child, in addition to the support ordered under the child support guidelines.
- (b) A parent, who has one hundred percent (100%) of the combined monthly adjusted parental gross income, shall be entitled to a reduction in gross income of the entire amount of premiums incurred and paid.
- (c) The court shall order the cost of health care of the child to be paid by either or both parents of the child regardless of who has physical custody. The court order shall include:
1. A judicial directive designating which parent shall have financial responsibility for providing health care for the dependent child, which shall include but not be limited to private health care insurance coverage, payments of necessary health care deductibles or copayments;
 2. If appropriate, cash medical support. "Cash medical support" means an amount to be paid toward the cost of health care insurance coverage that is provided by a public entity, including the Kentucky Children's Health Insurance Program or the Kentucky Medicaid program, or another parent or person with whom the child resides through employment or

- otherwise, fixed payments for ongoing medical costs, extraordinary medical expenses, or any combination thereof; and
3. A statement providing that if the designated parent's health care coverage provides for covered services for dependent children beyond the age of majority, then any ~~unmarried~~ children **who have not entered into matrimony** up to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the insured parent for maintenance and support shall be covered.
 - (d) If private health care insurance coverage is not reasonable in cost and accessible at the time the request for the coverage is made, the court order shall provide for cash medical support until private health care insurance coverage becomes reasonable in cost and accessible.
 - (8)
 - (a) For purposes of this section, "reasonable in cost" means that the cost of coverage to the responsible parent does not exceed five percent (5%) of his or her gross income. The five percent (5%) standard shall apply to the cost of adding the child to an existing policy, the difference in the cost between a single and a family policy, or the cost of acquiring a separate policy to cover the child. If the parties agree or the court finds good cause exists, the court may order medical coverage in excess of five percent (5%) of the parent's gross income.
 - (b) For purposes of this section, "accessible" means that there are providers who meet the health care needs of the child and who are located no more than sixty (60) minutes or sixty (60) miles from the child's primary residence, except that nothing shall prohibit use of a provider located more than sixty (60) minutes or sixty (60) miles from the child's primary residence.
 - (9) The cost of extraordinary medical expenses shall be allocated between the parties in

proportion to their combined monthly adjusted parental gross incomes. "Extraordinary medical expenses" means uninsured expenses in excess of one hundred dollars (\$100) per child per calendar year. "Extraordinary medical expenses" includes but is not limited to the costs that are reasonably necessary for medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for professional counseling or psychiatric therapy for diagnosed medical disorders; and for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services.

- (10) The court order shall include the Social Security numbers, provided in accordance with KRS 403.135, of all parties subject to a support order.
- (11) In any case administered by the Cabinet for Health and Family Services, if the parent ordered to provide health care coverage is enrolled through an insurer but fails to enroll the child under family coverage, the other parent or the Cabinet for Health and Family Services may, upon application, enroll the child.
- (12) In any case administered by the cabinet, information received or transmitted shall not be published or be open for public inspection, including reasonable evidence of domestic violence or child abuse if the disclosure of the information could be harmful to the custodial parent or the child of the parent. Necessary information and records may be furnished as specified by KRS 205.175.
- (13) In the case in which a parent is obligated to provide health care insurance coverage, and changes employment, and the new employer provides health care insurance coverage, the Cabinet for Health and Family Services shall transfer notice of the provision for coverage for the child to the employer, which shall operate to enroll this child in the obligated parent's health plan, unless the obligated parent contests the notice as specified by KRS Chapter 13B.
- (14) Notwithstanding any other provision of this section, any wage or income shall not be exempt from attachment or assignment for the payment of current child support

or owed or to-be-owed child support.

- (15) A payment of money received by a child as a result of a parental disability shall be credited against the child support obligation of the parent. A payment shall not be counted as income to either parent when calculating a child support obligation. An amount received in excess of the child support obligation shall be credited against a child support arrearage owed by the parent that accrued subsequent to the date of the parental disability, but shall not be applied to an arrearage that accrued prior to the date of disability. The date of disability shall be as determined by the paying agency.

➔Section 49. KRS 403.213 is amended to read as follows:

- (1) The Kentucky child support guidelines may be used by the parent, custodian, or agency substantially contributing to the support of the child as the basis for periodic updates of child support obligations and for modification of child support orders for health care. The provisions of any decree respecting child support may be modified only as to installments accruing subsequent to the filing of the motion for modification and only upon a showing of a material change in circumstances that is substantial and continuing.
- (2) Application of the Kentucky child support guidelines to the circumstances of the parties at the time of the filing of a motion or petition for modification of the child support order which results in equal to or greater than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed to be a material change in circumstances. Application which results in less than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed not to be a material change in circumstances. For the one (1) year period immediately following enactment of this statute, the presumption of material change shall be a twenty-five percent (25%) change in the amount of child support due rather than the fifteen percent (15%) stated above.

- (3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child shall be terminated by emancipation of the child unless the child is a high school student when he reaches the age of eighteen (18). In cases where the child becomes emancipated because of age, but not due to matrimony~~[marriage]~~, while still a high school student, the court-ordered support shall continue while the child is a high school student, but not beyond completion of the school year during which the child reaches the age of nineteen (19) years. Provisions for the support of the child shall not be terminated by the death of a parent obligated to support the child. If a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances. Emancipation of the child shall not terminate the obligation of child support arrearages that accrued while the child was an unemancipated minor.
- (4) The child support guidelines table shall be reviewed at least once every four (4) years by a commission consisting of the following persons:
- (a) The secretary of the Cabinet for Health and Family Services or a supervisory staff person designated by him;
 - (b) Two (2) members of the Kentucky Bar Association who have at least six (6) consecutive years' experience and are presently practicing domestic relations cases, one (1) member from a metropolitan or large urban area and one (1) member from a less populated area;
 - (c) Two (2) Circuit Judges appointed by the Chief Justice of the Kentucky Supreme Court, one (1) from a metropolitan or large urban area, and one (1) from a less populated area;
 - (d) One (1) District Judge appointed by the Chief Justice of the Kentucky Supreme Court;
 - (e) Two (2) county attorneys appointed by the president of the County Attorneys

Association, one (1) from a metropolitan or large urban area and one (1) from a less populated area;

- (f) The Attorney General or his designee, who shall be an attorney from his office;
- (g) One (1) person who is a custodial parent;
- (h) One (1) person who is a noncustodial parent;
- (i) One (1) person who is a parent with split custody; and
- (j) One (1) child advocate.

The members designated in paragraphs (g) to (j) of this subsection shall be appointed by the Governor from a list of three (3) names for each category submitted by the Cabinet for Health and Family Services. If the status of one (1) of these members changes, the member shall be replaced through appointment by the Governor from a list of three (3) names submitted by the cabinet.

- (5) The commission shall make a recommendation to the Kentucky General Assembly to ensure that the child support guidelines table results in a determination of appropriate child support amounts.

➔Section 50. KRS 403.230 is amended to read as follows:

- (1) No earlier than one (1) year after entry of a decree of legal separation, the court on motion of either party shall convert the decree to a decree of dissolution of matrimony~~[marriage]~~.
- (2) Upon request by a wife whose matrimony~~[marriage]~~ is dissolved or declared invalid, the court may, and if there are no children of the parties shall, order her maiden name or a former name restored.

➔Section 51. KRS 403.250 is amended to read as follows:

- (1) Except as otherwise provided in subsection (6) of KRS 403.180, the provisions of any decree respecting maintenance may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms

unconscionable. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

- (2) Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or ~~if the remarriage of~~ the party receiving maintenance enters into matrimony.

➔Section 52. KRS 403.280 is amended to read as follows:

- (1) A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in KRS 403.350. The court may award temporary custody under the standards of KRS 403.270 after a hearing, or, if there is no objection, solely on the basis of the affidavits.
- (2) If a proceeding for dissolution of matrimony~~marriage~~ or legal separation is dismissed, any temporary custody order is vacated unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parents and the best interests of the child require that a custody decree be issued.
- (3) If a custody proceeding commenced in the absence of a petition for dissolution of matrimony~~marriage~~ or legal separation under KRS 403.822(1)(a) or (b) is dismissed, any temporary custody order is vacated.
- (4) If a court determines by clear and convincing evidence that a person is a de facto custodian, the court shall join that person in the action, as a party needed for just adjudication under Rule 19 of the Kentucky Rules of Civil Procedure.

➔Section 53. KRS 403.720 is amended to read as follows:

As used in KRS 403.715 to 403.785:

- (1) "Domestic violence and abuse" means physical injury, serious physical injury, stalking, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or

- members of ~~a[an-unmarried]~~ couple **who are not in a matrimonial relationship**;
- (2) "Family member" means a spouse, including a former spouse, a grandparent, a grandchild, a parent, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim;
 - (3) "Foreign protective order" means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 that was issued on the basis of domestic violence and abuse;
 - (4) "Global positioning monitoring system" means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;
 - (5) "Member of ~~a[an-unmarried]~~ couple **who are not in a matrimonial relationship**" means each member of ~~a[an-unmarried]~~ couple **who are not in a matrimonial relationship** which allegedly has a child in common, any children of that couple, or a member of ~~a[an-unmarried]~~ couple **who are not in a matrimonial relationship** **and** who are living together or have formerly lived together;
 - (6) "Order of protection" means an emergency protective order or a domestic violence order and includes a foreign protective order; and
 - (7) "Substantial violation" means criminal conduct which involves actual or threatened harm to the person, family, or property of an individual protected by an order of protection.

➔Section 54. KRS 403.725 is amended to read as follows:

- (1) A petition for an order of protection may be filed by:
 - (a) A victim of domestic violence and abuse; or
 - (b) An adult on behalf of a victim who is a minor otherwise qualifying for relief under this subsection.
- (2) The petition may be filed in the victim's county of residence or a county where the

victim has fled to escape domestic violence and abuse.

- (3) The petition shall be verified and contain:
 - (a) The name, age, address, occupation, residence, and school or postsecondary institution of the petitioner;
 - (b) The name, age, address, occupation, residence, and school or postsecondary institution of the person or persons who have engaged in the alleged act or acts complained of in the petition;
 - (c) The facts and circumstances which constitute the basis for the petition;
 - (d) The date and place of the matrimony~~[marriage]~~ of the parties, if applicable; and
 - (e) The names, ages, and addresses of the petitioner's minor children, if applicable.
- (4) The petition shall be filed on forms prescribed by the Administrative Office of the Courts and provided to the person seeking relief by the circuit clerk or by another individual authorized by the court to provide and verify petitions in emergency situations, such as law enforcement officers and Commonwealth's or county attorneys.
- (5) All petitions requested, completed, and signed by persons seeking protection under this chapter shall be accepted and filed with the court.
- (6)
 - (a) Jurisdiction over petitions filed under this chapter shall be concurrent between the District Court and Circuit Court and a petition may be filed by a petitioner in either court, except that a petition shall be filed in a family court if one has been established in the county where the petition is filed.
 - (b) The Court of Justice shall provide a protocol for twenty-four (24) hour access to orders of protection in each county with any protocol, whether statewide or local, being subject to Supreme Court review and approval of the initial protocol and any subsequent amendments. This protocol may allow for

petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.

- (c) The Court of Justice may authorize by rule that petitions in a specific county be filed in accordance with a supplemental jurisdictional protocol adopted for that county. This protocol may provide for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.
- (7) Any judge to whom a petition is referred under subsection (6) of this section shall have full authority to review and hear a petition and subsequently grant and enforce an order of protection.
- (8) If the judge of a court in which there is a pending request for modification or enforcement of an existing order of protection is unavailable or unable to act within a reasonable time, the proceedings may be conducted by any judge of the county in accordance with court rules.

➔Section 55. KRS 403.750 is amended to read as follows:

- (1) Any family member or any member of ~~a~~[an unmarried] couple ***who are not in a matrimonial relationship*** may file for and receive protection under this chapter from domestic violence and abuse, notwithstanding the existence of or intent to file an action under this chapter by either party.
- (2) (a) Any family member or member of ~~a~~[an unmarried] couple ***who are not in a matrimonial relationship*** who files a petition for an order of protection based upon domestic violence or abuse shall make known to the court any custody or divorce actions involving both the petitioner and the respondent that are pending in any court.
- (b) If the petitioner or respondent to an order of protection initiates an action under this chapter, the party initiating the action shall make known to the court the existence and status of any orders of protection, which shall remain

effective and enforceable until superseded by order of the court in which the case is filed.

- (3) If a family member or member of ~~a~~~~[an unmarried]~~ couple ***who are not in a matrimonial relationship*** files an action for dissolution of ~~matrimony~~~~[marriage]~~, child custody, or visitation, the court hearing the case shall have jurisdiction to issue an order of protection upon the filing of a verified motion either at the commencement or during the pendency of the action.

➔Section 56. KRS 404.010 is amended to read as follows:

- (1) ~~Matrimony~~~~[Marriage]~~ shall give to the husband, during the life of the wife, no estate or interest in the wife's property, real or personal, owned at the time or acquired after the marriage. During the existence of the ~~matrimonial~~~~[marriage]~~ relationship the wife shall hold and own all her estate to her separate and exclusive use, and free from the debts, liabilities or control of her husband.
- (2) ~~The~~~~[A married woman's]~~ estate ***of a woman who is not in a matrimonial relationship*** shall be liable for her debts and responsibilities contracted before ~~matrimony~~~~[marriage]~~, and for such contracted after ~~matrimony~~~~[marriage]~~, except as provided in this chapter and in KRS Chapter 392.

➔Section 57. KRS 404.020 is amended to read as follows:

- (1) A ~~married~~ woman ***who is a party to a matrimony*** may acquire and hold property, real and personal, by gift, devise or descent, or by purchase, and may, in her own name, as if she ***has not entered into matrimony***~~[were unmarried]~~, sell and dispose of her personal property. She may make contracts, and sue and be sued, as a single woman. She may rent out her real estate, and collect, receive and recover in her own name the rents thereof, and make contracts for the improvement thereof.
- (2) A gift, transfer or assignment of personal property between husband and wife shall not be valid as to third persons, unless it is in writing, and acknowledged and recorded as chattel mortgages are required to be acknowledged and recorded; but

the recording of any such writing shall not make valid any such gift, transfer or assignment that is fraudulent or voidable as to creditors or purchasers.

➔Section 58. KRS 404.030 is amended to read as follows:

- (1) A ~~married~~ woman **who is a party to a matrimony** may sell, convey or encumber any of her lands and chattels real, but such sale, conveyance or encumbrance shall not bar the husband's right to curtesy unless he joins in the instrument of sale, conveyance or encumbrance or releases his right to curtesy by separate instrument.
- (2) Any ~~married~~ woman **who is a party to a matrimony** may convey by agent any interest she has in real or personal property situated in this state if she could lawfully convey it in person. The conveyance shall be made by virtue of a power of attorney, executed and acknowledged or proven as deeds by ~~married~~ women **who are parties to matrimony** are required to be.

➔Section 59. KRS 404.040 is amended to read as follows:

The husband shall not be liable for any debt or responsibility of the wife contracted or incurred before or after **matrimony**~~marriage~~, except to the amount or value of the property he received from or by her by virtue of the **matrimony**~~marriage~~; but he shall be liable for necessities furnished to her after **matrimony**~~marriage~~.

➔Section 60. KRS 404.060 is amended to read as follows:

- (1) A ~~married~~ woman **who is a party to a matrimony** may sue, and be sued, as a single woman.
- (2) She may defend an action against her and her husband for herself, and for him also if he fail to defend.
- (3) If a husband desert his wife, she may bring or defend for him any action which he might bring or defend, and shall have the powers and rights with reference thereto which he would have had but for such desertion.
- (4) If a female party to an action **enters into matrimony**~~marry~~, her husband may be made a party by a motion, causing the fact to be stated upon the record; and the

action shall not be delayed by reason of the matrimony~~[marriage]~~.

- (5) But if a wife be adjudged mentally disabled, or imprisoned, the actions mentioned in subsections (1), (2), and (3), of this section must be prosecuted or defended by her guardian, conservator, or curator, if she have one, and if she have none, must be prosecuted by her next friend, or defended by her guardian ad litem.

➔Section 61. KRS 405.020 is amended to read as follows:

- (1) The father and mother shall have the joint custody, nurture, and education of their children who are under the age of eighteen (18). If either of the parents dies, the survivor, if suited to the trust, shall have the custody, nurture, and education of the children who are under the age of eighteen (18). The father shall be primarily liable for the nurture and education of his children who are under the age of eighteen (18) and for any ~~[unmarried]~~ child over the age of eighteen (18) who is not a party to a matrimony when the child is a full-time high school student, but not beyond completion of the school year during which the child reaches the age of nineteen (19) years.
- (2) The father and mother shall have the joint custody, care, and support of their children who have reached the age of eighteen (18) and who are wholly dependent because of permanent physical or mental disability. If either of the parents dies, the survivor, if suited to the trust, shall have the custody, care, and support of such children.
- (3) Notwithstanding the provisions of subsections (1) and (2) of this section, a person claiming to be a de facto custodian, as defined in KRS 403.270, may petition a court for legal custody of a child. The court shall grant legal custody to the person if the court determines that the person meets the definition of de facto custodian and that the best interests of the child will be served by awarding custody to the de facto custodian.
- (4) Notwithstanding the provisions of subsections (1) and (2) of this section, if either

parent dies and at the time of death a child is in the custody of a de facto custodian, as defined in KRS 403.270, the court shall award custody to the de facto custodian if the court determines that the best interests of the child will be served by that award of custody.

➔Section 62. KRS 406.011 is amended to read as follows:

The father of a child which is or may be born out of wedlock is liable to the same extent as the father of a child born in wedlock, whether or not the child is born alive, for the reasonable expense of the mother's pregnancy and confinement and for the education, necessary support and funeral expenses of the child. A child born during lawful wedlock, or within ten (10) months thereafter, is presumed to be the child of the husband and wife. However, a child born out of wedlock includes a child born to a ~~married~~ woman ***who is a party to a matrimony*** by a man other than her husband where evidence shows that the ***matrimonial***~~marital~~ relationship between the husband and wife ceased ten (10) months prior to the birth of the child.

➔Section 63. KRS 413.140 is amended to read as follows:

- (1) The following actions shall be commenced within one (1) year after the cause of action accrued:
 - (a) An action for an injury to the person of the plaintiff, or of her husband, his wife, child, ward, apprentice, or servant;
 - (b) An action for injuries to persons, cattle, or other livestock by railroads or other corporations, with the exception of hospitals licensed pursuant to KRS Chapter 216;
 - (c) An action for malicious prosecution, conspiracy, arrest, seduction, criminal conversation, or breach of promise of ***matrimony***~~marriage~~;
 - (d) An action for libel or slander;
 - (e) An action against a physician, surgeon, dentist, or hospital licensed pursuant to KRS Chapter 216, for negligence or malpractice;

- (f) A civil action, arising out of any act or omission in rendering, or failing to render, professional services for others, whether brought in tort or contract, against a real estate appraiser holding a certificate or license issued under KRS Chapter 324A;
 - (g) An action for the escape of a prisoner, arrested or imprisoned on civil process;
 - (h) An action for the recovery of usury paid for the loan or forbearance of money or other thing, against the loaner or forbearer or assignee of either;
 - (i) An action for the recovery of stolen property, by the owner thereof against any person having the same in his possession;
 - (j) An action for the recovery of damages or the value of stolen property, against the thief or any accessory;
 - (k) An action arising out of a detention facility disciplinary proceeding, whether based upon state or federal law; and
 - (l) An action for damages arising out of a deficiency, defect, omission, error, or miscalculation in any survey or plat, whether brought in tort or contract, against a licensed professional land surveyor holding a license under KRS Chapter 322.
- (2) In respect to the action referred to in paragraph (e) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the injury is first discovered or in the exercise of reasonable care should have been discovered; provided that such action shall be commenced within five (5) years from the date on which the alleged negligent act or omission is said to have occurred.
- (3) In respect to the action referred to in paragraph (f) or (l) of subsection (1) of this section, the cause of action shall be deemed to accrue within one (1) year from the date of the occurrence or from the date when the cause of action was, or reasonably should have been, discovered by the party injured.
- (4) In respect to the action referred to in paragraph (h) of subsection (1) of this section,

the cause of action shall be deemed to accrue at the time of payment. This limitation shall apply to all payments made on all demands, whether evidenced by writing or existing only in parol.

- (5) In respect to the action referred to in paragraph (i) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the property is found by its owner.
- (6) In respect to the action referred to in paragraph (j) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of discovery of the liability.
- (7) In respect to the action referred to in paragraph (k) of subsection (1) of this section, the cause of action shall be deemed to accrue on the date an appeal of the disciplinary proceeding is decided by the institutional warden.

➔Section 64. KRS 427.070 is amended to read as follows:

- (1) The homestead shall be for the use of the widow as long as she occupies it, and the ~~unmarried~~ infant children of the husband **who are not parties to a matrimony** are entitled to a joint occupancy with her until the youngest ~~unmarried~~ child **who is not a party to a matrimony** arrives at full age. The termination of the widow's occupancy shall not affect the rights of the children. The land may be sold, subject to the right of the widow and children, if a sale is necessary to pay the debts of the husband.
- (2) The homestead of a woman shall, in like manner, be for the use of her surviving husband and her children, situated as above. When the interest of the husband and children ceases, the homestead shall be disposed of in like manner and the proceeds applied on the same terms to her debts, or, if there are no debts, divided among her children.

➔Section 65. KRS 431.005 is amended to read as follows:

- (1) A peace officer may make an arrest:

- (a) In obedience to a warrant; or
 - (b) Without a warrant when a felony is committed in his or her presence; or
 - (c) Without a warrant when he or she has probable cause to believe that the person being arrested has committed a felony; or
 - (d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his or her presence; or
 - (e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his or her presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his or her presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person being arrested has violated KRS 189A.010 or KRS 281A.210; or
 - (f) Without a warrant when a violation of KRS 508.030 has occurred in the emergency room of a hospital without the officer's presence if the officer has probable cause to believe that the person being arrested has violated KRS 508.030. For the purposes of this paragraph, "emergency room" means that portion of a licensed hospital which has the primary purpose of providing emergency medical care, twenty-four (24) hours per day, seven (7) days per week, and three hundred sixty-five (365) days per year.
- (2) (a) Any peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member, member of ~~a[an-unmarried]~~ couple **who are not in a matrimonial relationship**, or another person with whom the person was or is in a dating relationship.
- (b) As used in this subsection, "dating relationship," "family member," and "member of ~~a[an-unmarried]~~ couple **who are not in a matrimonial relationship**" have the same meanings as defined in KRS 403.720 and

456.010.

- (c) For the purpose of this subsection, the term "member of ~~a[an-unmarried]~~ couple ***who are not in a matrimonial relationship***" has the same meaning as set out in KRS 403.720.
- (3) A peace officer may arrest a person without a warrant when the peace officer has probable cause to believe that the person is a sexual offender who has failed to comply with the Kentucky Sex Offender Registry requirements based upon information received from the Law Information Network of Kentucky.
- (4) For purposes of subsections (2) and (3) of this section, a "peace officer" is an officer certified pursuant to KRS 15.380.
- (5) If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.
- (6) A private person may make an arrest when a felony has been committed in fact and he or she has probable cause to believe that the person being arrested has committed it.
- (7) If a law enforcement officer has probable cause to believe that a person has violated a restraining order issued under KRS 508.155, then the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

➔Section 66. KRS 454.050 is amended to read as follows:

In any civil action for slander, seduction or breach of promise of ***matrimony***~~[marriage]~~, the judge shall exclude from the courtroom, and from the hearing of the testimony and arguments, all infants under the age of sixteen (16) years, except those who are witnesses in the case or kin to one (1) of the parties.

➔Section 67. KRS 508.032 is amended to read as follows:

- (1) If a person commits a third or subsequent offense of assault in the fourth degree under KRS 508.030 within five (5) years, and the relationship between the perpetrator and the victim in each of the offenses meets the definition of family member or member of ~~a[an-unmarried]~~ couple **who are not in a matrimonial relationship**, as defined in KRS 403.720, then the person may be convicted of a Class D felony. If the Commonwealth desires to utilize the provisions of this section, the Commonwealth shall indict the defendant and the case shall be tried in the Circuit Court as a felony case. The jury, or judge if the trial is without a jury, may decline to assess a felony penalty in a case under this section and may convict the defendant of a misdemeanor. The victim in the second or subsequent offense is not required to be the same person who was assaulted in the prior offenses in order for the provisions of this section to apply.
- (2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered by a court of competent jurisdiction.

➔Section 68. KRS 510.020 is amended to read as follows:

- (1) Whether or not specifically stated, it is an element of every offense defined in this chapter that the sexual act was committed without consent of the victim.
- (2) Lack of consent results from:
 - (a) Forcible compulsion;
 - (b) Incapacity to consent; or
 - (c) If the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.
- (3) A person is deemed incapable of consent when he or she is:
 - (a) Less than sixteen (16) years old;

- (b) An individual with an intellectual disability or an individual that suffers from a mental illness;
 - (c) Mentally incapacitated;
 - (d) Physically helpless; or
 - (e) Under the care or custody of a state or local agency pursuant to court order and the actor is employed by or working on behalf of the state or local agency.
- (4) The provisions of subsection (3)(e) of this section shall not apply to persons who ~~have~~^{are} lawfully entered into matrimony with~~married to~~ each other and no court order is in effect prohibiting contact between the parties.

➔Section 69. KRS 510.035 is amended to read as follows:

A person who engages in sexual intercourse or deviate sexual intercourse with another person ~~with~~^{to} whom the person has entered into matrimony~~is married~~, or subjects another person ~~with~~^{to} whom the person has entered into matrimony~~is married~~ to sexual contact, does not commit an offense under this chapter regardless of the person's age solely because the other person is less than sixteen (16) years old or an individual with an intellectual disability.

➔Section 70. KRS 530.010 is amended to read as follows:

- (1) A person is guilty of bigamy when he or she:
- (a) Purports to enter into matrimony with~~marry~~ another person knowing he or she has a husband or wife or knowing the other person has a husband or wife; or
 - (b) Cohabits in this state after a bigamous marriage in another state.
- (2) It shall be a defense to bigamy that the accused believed he or she was legally eligible to reenter into matrimony~~remarry~~.
- (3) Bigamy is a Class D felony.

➔Section 71. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

- (1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when:
- (a) His or her parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person exercising custodial control or supervision of the child:
1. Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;
 2. Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;
 3. Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005;
 4. Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;
 5. Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;
 6. Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;
 7. Abandons or exploits the child;
 8. Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary

- medical services for a child; or
9. Fails to make sufficient progress toward identified goals as set forth in the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) of the most recent twenty-two (22) months; or
- (b) A person twenty-one (21) years of age or older commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon a child less than sixteen (16) years of age;
- (2) "Aggravated circumstances" means the existence of one (1) or more of the following conditions:
- (a) The parent has not attempted or has not had contact with the child for a period of not less than ninety (90) days;
- (b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;
- (c) The parent has sexually abused the child and has refused available treatment;
- (d) The parent has been found by the cabinet to have engaged in abuse of the child that required removal from the parent's home two (2) or more times in the past two (2) years; or
- (e) The parent has caused the child serious physical injury;
- (3) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency, which behavior results in danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;

- (4) "Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;
- (5) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;
- (6) "Cabinet" means the Cabinet for Health and Family Services;
- (7) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;
- (8) "Child" means any person who has not reached his or her eighteenth birthday, unless otherwise provided;
- (9) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or matrimony~~[marriage]~~ to the person maintaining the facility;
- (10) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;
- (11) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of

- mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;
- (12) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Health and Family Services, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless otherwise provided by law;
- (13) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;
- (14) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;
- (15) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;
- (16) "Court-designated worker" means that organization or individual delegated by the Administrative Office of the Courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;
- (17) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- (18) "Department" means the Department for Community Based Services;
- (19) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;
- (20) "Detention" means the safe and temporary custody of a juvenile who is accused of

- conduct subject to the jurisdiction of the court who requires a restricted or closely supervised environment for his or her own or the community's protection;
- (21) "Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;
- (22) "Diversion agreement" means a mechanism designed to hold a child accountable for his or her behavior and, if appropriate, securing services to serve the best interest of the child and to provide redress for that behavior without court action and without the creation of a formal court record;
- (23) "Eligible youth" means a person who:
- (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
 - (b) Is eighteen (18) years of age to nineteen (19) years of age; and
 - (c) Is requesting to extend or reinstate his or her commitment to the cabinet in order to participate in state or federal educational programs or to establish independent living arrangements;
- (24) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;
- (25) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his or her age, development, culture, and environment as testified to by a qualified mental health professional;
- (26) "Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism;
- (27) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- (28) "Foster family home" means a private home in which children are placed for foster

- family care under supervision of the cabinet or a licensed child-placing agency;
- (29) "Graduated sanction" means any of a continuum of accountability measures, programs, and sanctions, ranging from less restrictive to more restrictive in nature, that may include but are not limited to:
- (a) Electronic monitoring;
 - (b) Drug and alcohol screening, testing, or monitoring;
 - (c) Day or evening reporting centers;
 - (d) Reporting requirements;
 - (e) Community service; and
 - (f) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment;
- (30) "Habitual runaway" means any child who has been found by the court to have been absent from his or her place of lawful residence without the permission of his or her custodian for at least three (3) days during a one (1) year period;
- (31) "Habitual truant" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150(1) two (2) or more times during a one (1) year period;
- (32) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;
- (33) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;
- (34) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest

- of the child would be served without formal adjudication and disposition;
- (35) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;
- (36) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence to allow for appropriate family engagement;
- (37) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- (38) "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;
- (39) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- (40) "Nonoffender" means a child alleged to be dependent, neglected, or abused and who has not been otherwise charged with a status or public offense;
- (41) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;
- (42) "Nonsecure setting" means a nonsecure facility or a residential home, including a child's own home, where a child may be temporarily placed pending further court action. Children before the court in a county that is served by a state operated secure detention facility, who are in the detention custody of the Department of Juvenile Justice, and who are placed in a nonsecure alternative by the Department of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;

- (43) "Out-of-home placement" means a placement other than in the home of a parent, relative, or guardian, in a boarding home, clinical treatment facility, community-based facility, detention facility, emergency shelter, foster family home, hospital, nonsecure facility, physically secure facility, residential treatment facility, or youth alternative center;
- (44) "Parent" means the biological or adoptive mother or father of a child;
- (45) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;
- (46) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;
- (47) "Physical injury" means substantial physical pain or any impairment of physical condition;
- (48) "Physically secure facility" means a facility that relies primarily on the use of construction and hardware such as locks, bars, and fences to restrict freedom;
- (49) "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;
- (50) "Qualified mental health professional" means:
- (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
 - (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to

- apply for certification by the American Board of Psychiatry and Neurology, Inc.;
- (c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate licensed under the provisions of KRS Chapter 319;
 - (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;
 - (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;
 - (f) A matrimony~~[marriage]~~ and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center;
or
 - (g) A professional counselor credentialed under the provisions of KRS 335.500 to

335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, or a regional comprehensive care center;

- (51) "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;
- (52) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;
- (53) "Risk and needs assessment" means an actuarial tool scientifically proven to identify specific factors and needs that are related to delinquent and noncriminal misconduct;
- (54) "School personnel" means those certified persons under the supervision of the local public or private education agency;
- (55) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (56) "Secure juvenile detention facility" means any physically secure facility used for the secure detention of children other than any facility in which adult prisoners are confined;
- (57) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;
- (58) "Sexual abuse" includes but is not necessarily limited to any contacts or interactions in which the parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of

the child or responsibility for his or her welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

- (59) "Sexual exploitation" includes but is not limited to a situation in which a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;
- (60) "Social service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;
- (61) "Staff secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;
- (62) (a) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall include:
1. Beyond the control of school or beyond the control of parents;
 2. Habitual Runaway;
 3. Habitual truant;

4. Tobacco offenses as provided in KRS 438.305 to 438.340; and
 5. Alcohol offenses as provided in KRS 244.085.
- (b) Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew;
- (63) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;
- (64) "Transitional living support" means all benefits to which an eligible youth is entitled upon being granted extended or reinstated commitment to the cabinet by the court;
- (65) "Transition plan" means a plan that is personalized at the direction of the youth that:
- (a) Includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services; and
 - (b) Is as detailed as the youth may elect;
- (66) "Valid court order" means a court order issued by a judge to a child alleged or found to be a status offender:
- (a) Who was brought before the court and made subject to the order;
 - (b) Whose future conduct was regulated by the order;
 - (c) Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings; and
 - (d) Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States;
- (67) "Violation" means any offense, other than a traffic infraction, for which a sentence

of a fine only can be imposed;

- (68) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 15A.320; and
- (69) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

➔Section 72. KRS 625.065 is amended to read as follows:

- (1) The putative father of a child shall be made a party and brought before the Circuit Court in the same manner as any other party to an involuntary termination action if one (1) of the following conditions exists:
- (a) He is known and voluntarily identified by the mother by affidavit;
 - (b) Prior to the entry of a final order in a termination proceeding, he shall have acknowledged the child as his own by affirmatively asserting paternity in the action or to the custodial agency or the party bringing the action within sixty (60) days after the birth of the child;
 - (c) He has caused his name to be affixed to the birth certificate of the child;
 - (d) He has commenced a judicial proceeding claiming parental right;
 - (e) He has contributed financially to the support of the child, either by paying the medical or hospital bills associated with the birth of the child or financially contributed to the child's support; or
 - (f) He has entered into matrimony with~~married~~ the mother of the child or has lived openly or is living openly with the child or the person designated on the birth certificate as the biological mother of the child.
- (2) Any person to whom none of the above conditions apply shall be deemed to have no parental rights to the child in question.

➔Section 73. KRS 645.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, unless the context requires otherwise:

- (1) "Convalescent leave" means an authorized release not to exceed ninety (90) days of a child admitted to a hospital under this chapter;
- (2) "Danger to self or others" means that it is shown by substantial proof that in the near future the child may attempt suicide or may cause substantial physical harm or threat of substantial physical harm to self or others, as evidenced by recent threats or overt acts, including acts by which the child deprives self or others of the basic means of survival, including reasonable shelter, food or clothing. In determining whether a child presents a danger to self, factors to be considered shall include, but shall not be limited to, an established pattern of past dangerous behavior;
- (3) "Hospital" means a licensed private or public institution, health care facility, or part thereof, approved by the cabinet to treat children who are mentally ill;
- (4) "Least restrictive alternative" means the treatment and conditions of treatment for a child which, separately and in combination:
 - (a) Are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives for the child; and
 - (b) Involve no inpatient care restrictions on physical movement except as reasonably necessary for the administration of treatment or for the protection of the child or others from physical injury.

In determining the least restrictive alternative, factors to be considered shall include, but not be limited to, the likelihood, based on the child's prior outpatient treatment, that the child will benefit from outpatient treatment;

- (5) "Mental health facility" means a residential or nonresidential service providing children psychological or psychiatric treatment for emotional, mental, or behavioral problems;
- (6) "Mental health group home" means a community-based facility established to serve

not less than four (4) nor more than eight (8) mentally ill children with a treatment program developed and supervised by a qualified mental health professional. Mental health group homes shall not be adjacent to or part of a residential treatment facility or a hospital;

(7) "Mental health professional" means:

- (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in conducting mental health services;
- (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States engaged in conducting mental health services;
- (c) A psychologist, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter 319;
- (d) A registered nurse licensed under the provisions of KRS Chapter 314 engaged in providing mental health services;
- (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 engaged in providing mental health services;
- (f) A ~~matrimony~~~~[marriage]~~ and family therapist licensed under the provisions of KRS 335.300 to 335.399 engaged in providing mental health services;
- (g) A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 engaged in providing mental health services;
- (h) An art therapist certified under KRS 309.130 engaged in providing mental health services; or
- (i) A pastoral counselor licensed under the provisions of KRS 335.600 to 335.699 engaged in providing mental health services; and

(8) "Mentally ill child" means that considering the child's age and development, the

child has a substantially impaired capacity to use self-control, judgment or discretion in the conduct of the child's affairs and social relations, the child's behavior is maladaptive or the child exhibits recognized emotional symptoms which can be related to physiological, psychological or social factors.

➔Section 74. KRS 3.265 is amended to read as follows:

- (1) The powers conferred by KRS 3.255 to 3.275 are solely to enable the Commonwealth and the United States to exercise concurrent legislative jurisdiction for purposes of criminal law enforcement over United States Department of the Interior National Park System lands in Kentucky. No other legislative jurisdiction is ceded by KRS 3.255 to 3.275, and there are specifically reserved over any lands as to which any legislative jurisdiction may be ceded pursuant to KRS 3.255 to 3.275:
 - (a) The entire legislative jurisdiction with respect to taxation of the Commonwealth, and of each state agency, county, urban-county government, city, special district and other political subdivision;
 - (b) The entire legislative jurisdiction of the Commonwealth with respect to matrimony, marriage, divorce, annulment, adoption, the commitment or other civil disposition of the mentally incompetent, and the descent and distribution of property; and
 - (c) The power to execute any process, civil or criminal, issued under the authority of the Commonwealth.
- (2) No person residing upon such lands shall be deprived of any civil or political rights by reason of the cession of such legislative jurisdiction to the United States.

➔Section 75. KRS 6.611 is amended to read as follows:

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

- (1) "Adversarial proceeding" means a proceeding in which decisions are made based upon evidence presented as measured against established standards, with parties having the right to appeal the decision on the record to a court;

- (2) (a) "Anything of value" includes the following:
1. A pecuniary item, including money, or a bank bill or note;
 2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
 3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
 4. A stock, bond, note, or other investment interest in an entity;
 5. A receipt given for the payment of money or other property;
 6. A right in action;
 7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
 8. A loan or forgiveness of indebtedness;
 9. A work of art, antique, or collectible;
 10. An automobile or other means of personal transportation;
 11. Real property or an interest in real property, including title to realty; a fee simple or partial interest, present or future, contingent or vested, within realty; a leasehold interest; or other beneficial interest in realty;
 12. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as a legislator;
 13. A promise or offer of employment; or
 14. Any other thing of value that is pecuniary or compensatory in value to a person, or the primary significance of which is economic gain.
- (b) "Anything of value" does not include:
1. A campaign contribution properly received and reported, if reportable, as required under KRS Chapter 121;

2. Compensation, food, beverages, entertainment, transportation, lodging, or other goods or services extended to a legislator by the legislator's private employer or by a person other than a legislative agent or employer;
3. A usual and customary commercial loan made in the ordinary course of business, without regard to the recipient's status as a legislator, and by a person or institution authorized by law to engage in the business of making loans;
4. A certificate, plaque, or commemorative token of less than one hundred fifty dollars (\$150) value;
5. Promotional items of less than fifty dollars (\$50);
6. Educational items;
7. Informational items;
8. The cost of attendance or participation, and of food and beverages consumed, at events:
 - a. To which all members of the Kentucky Senate or the Kentucky House of Representatives, or both, are invited;
 - b. To which all members of a joint committee or task force of the Kentucky Senate and the Kentucky House of Representatives are invited;
 - c. To which a caucus of legislators approved as a caucus by the Legislative Research Commission is invited;
 - d. Sponsored or coordinated by a state or local government entity, including a state institution of higher education, provided that the cost thereof is covered by the state or local government entity or state institution of higher education; or
 - e. To which an individual legislator is invited that are held in-state,

- and for which the legislator receives prior approval from a majority of the Legislative Research Commission;
9. Gifts from a person related by blood or matrimony~~[marriage]~~ or a member of the legislator's household;
 10. A gift that:
 - a. Is not used; and
 - b. No later than thirty (30) days after receipt, is returned to the donor or delivered to a charitable organization and is not claimed as a charitable contribution for federal income tax purposes;
 11. The cost, paid, reimbursed, raised, or obtained by the Legislative Research Commission, for attendance or participation, and for food and beverages consumed at, and funds, goods, and services provided for conducting events sponsored or coordinated by multistate or national organizations of, or including, state governments, state legislatures, or state legislators if the attendance and expenditures are approved in advance by the Legislative Research Commission;
 12. The cost of attendance or participation provided by the sponsoring entity, of lodging, and of food and beverages consumed, at in-state events sponsored by or in conjunction with a civic, charitable, governmental, trade association, or community organization;
 13. A gift or gifts from one member of the General Assembly to another member of the General Assembly;
 14. Anything for which the recipient pays or gives full value; or
 15. Any service spontaneously extended to a legislator in an emergency situation;
- (3) "Associated," if used with reference to an organization, includes an organization in which an individual or a member of the individual's family is a director, officer,

fiduciary, trustee, agent, or partner, or owns or controls, in the aggregate, an interest of ten thousand dollars (\$10,000) or more, or an interest of five percent (5%) or more of the outstanding equity;

- (4) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit;
- (5) "Business associate" includes the following:
- (a) A private employer;
 - (b) A general or limited partnership, or a general or limited partner within the partnership;
 - (c) A corporation that is family-owned or in which all shares of stock are closely held, and the shareholders, owners, and officers of such a corporation;
 - (d) A corporation in which the legislator or other person subject to this code has an investment interest, owns, or has a beneficial interest in shares of stock which constitute more than:
 - 1. Five percent (5%) of the value of the corporation; or
 - 2. Ten thousand dollars (\$10,000) at fair market value;
 - (e) A corporation, business association, or other business entity in which the legislator or other person subject to this code serves as an agent or a compensated representative;
- (6) "Candidate" means an individual who seeks nomination or election to the General Assembly. An individual is a candidate when the individual:
- (a) Files a notification and declaration for nomination for office with the Secretary of State; or
 - (b) Is nominated for office by his or her party under KRS 118.105, 118.115, 118.325, or 118.760;

- (7) "Charitable organization" means an organization described in 26 U.S.C. Sec. 170(c) as it currently exists or as it may be amended;
- (8) "Child" means the unemancipated minor daughter, son, stepdaughter, or stepson;
- (9) "Commission" means the Kentucky Legislative Ethics Commission;
- (10) (a) "Compensation" means:
1. An advance, salary, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money; or
 2. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money for services rendered or to be rendered.
- (b) "Compensation" does not include reimbursement of expenses if:
1. The reimbursement is equal to, or less than, the amount paid for the expenses;
 2. Expense records are itemized; and
 3. No portion of the reimbursed expense is used to give anything of value to a legislator, candidate, or the spouse of a legislator or candidate;
- (11) "Economic interest" means an interest distinct from that of the general public in a state purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a legislator may gain an economic benefit of fifty dollars (\$50) or more;
- (12) "Employer" means any person who engages a legislative agent and in the case of a business other than a sole proprietorship or self-employed individual, it means the business entity, and not an individual officer, director, or employee thereof, except when an officer, director, or employee makes an expenditure for which he or she is reimbursed by the business entity;
- (13) "Engage" means to make any arrangement, and "engagement" means any

arrangement, by which an individual is employed or retained for compensation to act for or on behalf of an employer to lobby;

(14) "Ethical misconduct" means any violation of the Kentucky Code of Legislative Ethics;

(15) (a) "Expenditure" means any of the following that is made to, at the request of, for the benefit of, or on behalf of any member of the General Assembly, the Governor, the secretary of a cabinet listed in KRS 12.250, or any member of the staff of any of those officials:

1. A payment, distribution, loan, advance, deposit, reimbursement, or gift of money, real estate, or anything of value, including, but not limited to, food and beverages, entertainment, lodging, transportation, or honoraria;
2. A contract, promise, or agreement, to make an expenditure; or
3. The purchase, sale, or gift of services or any other thing of value.

(b) "Expenditure" does not include a contribution, gift, or grant to a foundation or other charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. "Expenditure" does not include the purchase, sale, or gift of services or any other thing of value that is available to the general public on the same terms as it is available to the persons listed in this subsection;

(16) "Family member" means a person:

- (a) Who is the spouse, parent, sibling, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or grandchild of an individual; or
- (b) Who is a member of the individual's household, and is dependent upon the individual;

(17) "Filer" means an individual who is required to file a statement of financial interests pursuant to KRS 6.781;

(18) (a) "Financial transaction" means a transaction or activity that is conducted or

undertaken for profit and arises from the joint ownership, ownership, or part ownership in common of any real or personal property or any commercial or business enterprise of whatever form or nature between the following:

1. A legislative agent, his or her employer, or a member of the immediate family of the legislative agent or his or her employer; and
2. Any member of the General Assembly, the Governor, the secretary of a cabinet listed in KRS 12.250, or any member of the staff of any of the officials listed in this subparagraph.

(b) "Financial transaction" does not include any transaction or activity:

1. Described in paragraph (a) of this subsection if it is available to the general public on the same or similar terms and conditions; or
2. Made or let after public notice and competitive bidding or contracts that are available on similar terms to other members of the general public.

(19) "Former legislator" means a person who previously held a position as a legislator and who no longer holds that position;

(20) "Immediate family" means an unemancipated child residing in an individual's household, a spouse of an individual, or a person claimed by the individual as a dependent for tax purposes;

(21) "In-state" means within the borders of Kentucky or outside Kentucky in a county that is contiguous with the border of Kentucky;

(22) "Legislation" means bills, resolutions, amendments, nominations, administrative regulations, and any other matter pending before the General Assembly or any of its interim or statutory committees, or the executive approval or veto of any bill acted upon by the General Assembly;

(23) (a) "Legislative agent" means any individual who is engaged:

1. During at least a portion of his or her time to lobby as one (1) of his or her official responsibilities; or

2. In lobbying activities as a legislative liaison of an association, coalition, or public interest entity formed for the purpose of promoting or otherwise influencing legislation.
- (b) "Legislative agent" does not include:
1. Any person who limits his or her lobbying activities to appearing before public meetings of legislative committees, subcommittees, or task forces, or public hearings or meetings of public agencies;
 2. A private citizen who receives no compensation for lobbying and who expresses a personal opinion; or
 3. A public servant acting in his or her fiduciary capacity as a representative of his or her agency, college, university, or city, county, urban-county, consolidated local government, unified local government, or charter county government, except persons engaged by a de jure municipal corporation, such as the Kentucky Lottery Corporation or the Kentucky Housing Corporation, institutions of higher education, or local governments, whose primary responsibility during sessions of the General Assembly is to lobby;
- (24) "Legislative interest" means a substantial economic interest, distinct from that of the general public, in one (1) or more legislative matters;
- (25) "Legislative matter" means any bill, resolution, nomination, or other issue or proposal pending before the General Assembly or any interim committee, committee, subcommittee, task force, or commission of the General Assembly;
- (26) "Legislator" means a member or member-elect of the General Assembly;
- (27) (a) "Lobby" means to promote, advocate, or oppose the passage, modification, defeat, or executive approval or veto of any legislation by direct communication with any member of the General Assembly, the Governor, the secretary of any cabinet listed in KRS 12.250, or any member of the staff of

any of the officials listed in this paragraph.

- (b) "Lobbying" does not include:
1. Appearances before public meetings of the committees, subcommittees, task forces, and interim committees of the General Assembly;
 2. News, editorial, and advertising statements published in newspapers, journals, or magazines, or broadcast over radio or television;
 3. The gathering and furnishing of information and news by bona fide reporters, correspondents, or news bureaus to news media described in paragraph (b)2. of this subsection;
 4. Publications primarily designed for, and distributed to, members of bona fide associations or charitable or fraternal nonprofit corporations;
 5. Professional services in drafting bills or resolutions, preparing arguments on these bills or resolutions, or in advising clients and rendering opinions as to the construction and the effect of proposed or pending legislation, if the services are not otherwise connected with lobbying; or
 6. The action of any person not engaged by an employer who has a direct interest in legislation, if the person, acting under Section 1 of the Kentucky Constitution, assembles together with other persons for their common good, petitions any official listed in this subsection for the redress of grievances, or other proper purposes;
- (28) "Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business, trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in concert;
- (29) "Public servant" means an elected or appointed officer or employee of a federal or state agency; state institution of higher education; or a city, county, urban-county, or charter county government;

- (30) "State agency" means any department, office, commission, board, or authority within the executive department, and includes state-supported universities and colleges but does not include local boards of education; and
- (31) "Through others" means a scheme, artifice, or mechanism, the sole purpose of which is to accomplish by indirect means, using third parties, results which would be unlawful under this code if accomplished directly between a legislator or candidate and another person or entity.

➔Section 76. KRS 12.357 is amended to read as follows:

- (1) Notwithstanding any other statute to the contrary, an administrative body shall issue a temporary or regular license or certificate within thirty (30) days to the spouse of an active duty member of the Armed Forces of the United States if the spouse of the active duty member meets the statutory requirements of the administrative body and applies to the administrative body in a format promulgated in administrative regulation by the administrative body.
- (2) An application for temporary or regular licensure of the spouse of an active duty member of the Armed Forces of the United States shall include but not be limited to the following:
- (a) Proof that the applicant is a party to a matrimony with~~is married to~~ an active duty member of the Armed Forces of the United States;
 - (b) Proof that the applicant holds a valid license or certificate for the profession issued by another state, the District of Columbia, or any possession or territory of the United States;
 - (c) Proof that the applicant's spouse is assigned to a duty station in this state and that the applicant is also assigned to a duty station in this state pursuant to the spouse's official active duty military orders; and
 - (d) An application fee to be established by the administrative body in an amount that is no more than is necessary to offset the cost of issuing the temporary or

regular license.

- (3) A temporary license issued pursuant to this section shall expire six (6) months after the date of issuance and is not renewable.

➔Section 77. KRS 16.505 is amended to read as follows:

As used in KRS 16.505 to 16.652, unless the context otherwise requires:

- (1) "System" means the State Police Retirement System created by KRS 16.505 to 16.652;
- (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its successor;
- (4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;
- (5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;
- (6) "Service" means the total of current service and prior service;
- (7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.505 to 16.652, and any other amounts the member shall have contributed, including interest credited. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec.

401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);

- (8) "Creditable compensation" means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4). For employees who begin participating on or after September 1, 2008, creditable compensation shall not include payments for compensatory time;

- (9) "Final compensation" means:

- (a) For a member who begins participating before September 1, 2008, the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the

three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used; or

- (b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit;
- (10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;
- (11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (12) "Retirement allowance" means the retirement payments to which a retired member is entitled;
- (13) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's

- actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of Kentucky State Police;
- (15) "Normal retirement date" means:
- (a) For a member who begins participating before September 1, 2008, the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959; or
- (b) For a member who begins participating on or after September 1, 2008, the first day of the month following a member's sixtieth birthday;
- (16) "Disability retirement date" means the first day of the month following the last day of paid employment;
- (17) "Dependent child" means a child in the womb and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor entered into matrimony~~[married]~~ or who is a~~[an unmarried]~~ full-time student who has neither~~[not]~~ attained age twenty-two (22) nor entered into matrimony;
- (18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.505 to 16.652;
- (19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;
- (20) "Early retirement date" means:

- (a) For a member who begins participating before September 1, 2008, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service; or
 - (b) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system;
- (21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;
 - (22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;
 - (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;
 - (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
 - (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
 - (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient,

except for purposes of KRS 61.623;

- (27) "Person" means a natural person;
- (28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member;
- (30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits established by 26 U.S.C. sec. 415;

- (33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543;
- (34) "Month" means a calendar month;
- (35) "Membership date" means the date upon which the member began participating in the system as provided by KRS 16.543;
- (36) "Participant" means a member, as defined by subsection (21) of this section, or a retired member, as defined by subsection (11) of this section;
- (37) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
- (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or matrimonial~~marital~~ property rights to an alternate payee;
- (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (39) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583; and
- (40) "Accumulated account balance" means:
- (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
 - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583, the combined sum of the member's accumulated contributions and the member's accumulated employer pay credit.

➔Section 78. KRS 18A.150 is amended to read as follows:

- (1) Any person who has served in the active military, military reserves, or National

Guard and was discharged or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge shall have five (5) points added to the veteran's entrance examination score for classified positions. Any current member of the active military, military reserves, or National Guard shall be entitled to the same number of points.

- (2) Any person who has served in the active military, military reserves, or National Guard and was discharged or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge, whom the Veterans Administration or any branch of the Armed Forces of the United States determines has service-connected disabilities, shall have ten (10) points added to the veteran's entrance examination score for a classified position.
- (3) The spouse of a person who has served in the active military, military reserves, or National Guard, was discharged or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge, would be eligible for a ten (10) point preference, and whose service-connected disability disqualifies the veteran for positions along the general line of the veteran's usual occupation shall have ten (10) preference points added to the spouse's entrance examination score for a classified position. In such a case, the spouse loses the right to preference if the disabled veteran recovers.
- (4) Until subsequently reentering into matrimony~~[remarriage]~~, the surviving spouse of a person who has served in the active military, military reserves, or National Guard and was discharged or released therefrom with an honorable discharge, discharge under honorable conditions, or a general discharge shall have ten (10) preference points added to the spouse's entrance examination score for a classified position. This includes the surviving spouse of any military personnel who died while in the Armed Forces, unless circumstances surrounding the death would have been cause for other than honorable or general discharge separation.

- (5) A parent totally or partially dependent on a person who has served in the active military, military reserves, or National Guard and lost his or her life under honorable conditions while on active duty or active duty for training purposes or became permanently and totally disabled as a result of a service-connected disability shall have ten (10) preference points added to the parent's examination score for a classified position.
- (6) The preference points granted by subsections (1) to (5) of this section shall be added to entrance examination scores for classified positions only if the score is determined by the secretary to be a passing score and after verification of the required service. The total of the entrance examination score and the preference points may exceed one hundred (100).
- (7) (a) When a register certificate is transmitted to a state agency for employment consideration, that certificate shall clearly identify all individuals entitled to preference points under subsections (1) to (6) of this section, whether or not an examination is actually a part of the selection method. Regardless of the selection method used to fill a vacancy, these individuals shall be clearly identified.
- (b) 1. If the number of individuals identified in paragraph (a) of this subsection is less than five (5), the employing agency shall offer an interview to all individuals identified in paragraph (a) of this subsection, including individuals presently employed by the Commonwealth of Kentucky and applying for another classified position within state government.
2. If the number of individuals identified in paragraph (a) of this subsection equals or exceeds five (5), the employing agency shall offer an interview to no fewer than five (5).

➔Section 79. KRS 21.385 is amended to read as follows:

- (1) In a situation in which, by reason of federal tax law, the failure to commence the

payment of retirement benefits to a vested member of the Kentucky Judicial Retirement Plan, by a specified date after the member reaches a specified age, as designated by the federal tax law, will result in the imposition of a special excise tax, the member, without retiring, shall be entitled, as of the specified date, to commence drawing from the plan the monthly benefit he would have been entitled to had he retired on that date. Notwithstanding the provisions of KRS 21.360 and 61.680, a member who began participating in the Judicial Retirement Plan prior to January 1, 2014, may, at his option, continue to be a participating member of the plan thereafter until he retires, or, may elect to cease to be a participating member of the plan, in which latter event he shall not be required to become a participating member of the Kentucky Employees Retirement System.

- (2) A member drawing benefits from the Kentucky Judicial Retirement Plan pursuant to subsection (1) of this section who elects to continue as a participating member of the plan, or a person drawing benefits from the plan by reason of having retired, who by reason of reemployment again becomes a participating member of the plan, shall continue to draw the benefits until he retires, and accrue additional benefits, but in the calculation of the additional benefits only the years of service after he commenced drawing the initial benefits shall be counted, and the monthly additional benefit shall not exceed such amount as, when added to the initial monthly benefit, will equal the final compensation on which the additional benefit was calculated. The member's surviving spouse, if *in a matrimonial relationship* ~~with~~~~married to~~ the member at the time of his ultimate retirement, shall be considered to be the surviving spouse with respect to both the additional and the initial benefits.

➔Section 80. KRS 22A.020 is amended to read as follows:

- (1) Except as provided in Section 110 of the Constitution, an appeal may be taken as a matter of right to the Court of Appeals from any conviction, final judgment, order,

or decree in any case in Circuit Court, including a family court division of Circuit Court, unless such conviction, final judgment, order, or decree was rendered on an appeal from a court inferior to Circuit Court.

- (2) The Court of Appeals has jurisdiction to review interlocutory orders of the Circuit Court in civil cases, but only as authorized by rules promulgated by the Supreme Court.
- (3) Notwithstanding any other provision in this section, there shall be no review by appeal or by writ of certiorari from that portion of a final judgment, order or decree of a Circuit Court dissolving a matrimony~~[marriage.]~~
- (4) An appeal may be taken to the Court of Appeals by the state in criminal cases from an adverse decision or ruling of the Circuit Court, but only under the following conditions:
 - (a) Such appeal shall not suspend the proceedings in the case.
 - (b) Such appeal shall be taken in the manner provided by the Rules of Criminal Procedure and the Rules of the Supreme Court, except that the record on appeal shall be transmitted by the clerk of the Circuit Court to the Attorney General; and if the Attorney General is satisfied that review by the Court of Appeals is important to the correct and uniform administration of the law, he may deliver the record to the clerk of the Court of Appeals within the time prescribed by the above-mentioned rules.
 - (c) When an appeal is taken pursuant to this subsection, the Court of Appeals, if the record so warrants, may reverse the decision of the Circuit Court and order a new trial in any case in which a new trial would not constitute double jeopardy or otherwise violate any constitutional rights of the defendant.
- (5) Any party aggrieved by the judgment of the Circuit Court in a case appealed from a court inferior thereto may petition the Court of Appeals for a writ of certiorari.

➔Section 81. KRS 23A.100 is amended to read as follows:

- (1) As a division of Circuit Court with general jurisdiction pursuant to Section 112(6) of the Constitution of Kentucky, a family court division of Circuit Court shall retain jurisdiction in the following cases:
 - (a) Dissolution of matrimony~~[marriage]~~;
 - (b) Child custody;
 - (c) Visitation;
 - (d) Maintenance and support;
 - (e) Equitable distribution of property in dissolution cases;
 - (f) Adoption; and
 - (g) Termination of parental rights.
- (2) In addition to general jurisdiction of Circuit Court, a family court division of Circuit Court shall have the following additional jurisdiction:
 - (a) Domestic violence and abuse proceedings under KRS Chapter 403 subsequent to the issuance of an emergency protective order in accord with local protocols under KRS 403.725;
 - (b) Proceedings under the Uniform Act on Paternity, KRS Chapter 406, and the Uniform Interstate Family Support Act, KRS 407.5101 to 407.5902;
 - (c) Dependency, neglect, and abuse proceedings under KRS Chapter 620; and
 - (d) Juvenile status offenses under KRS Chapter 630, except where proceedings under KRS Chapter 635 or 640 are pending.
- (3) Family court divisions of Circuit Court shall be the primary forum for cases in this section, except that nothing in this section shall be construed to limit the concurrent jurisdiction of District Court.

➔Section 82. KRS 23A.110 is amended to read as follows:

The additional jurisdiction of a family court division of Circuit Court shall be liberally construed and applied to promote its underlying purposes, which are as follows:

- (1) To strengthen and preserve the integrity of the family and safeguard

matrimonial~~[marital]~~ and familial relationships;

- (2) To protect children and adult family members from domestic violence and abuse;
- (3) To promote the amicable settlement of disputes that have arisen between family members;
- (4) To assure an adequate remedy for children adjudged to be dependent, abused, or neglected, and for those children adjudicated as status offenders;
- (5) To mitigate the potential harm to the spouses and their children caused by the process of legal dissolution of matrimony~~[marriage]~~;
- (6) To make adequate provision for the care, custody, and support of minor children of divorce and for those children who have been born out of wedlock; and
- (7) To provide a level of proceedings, when necessary, that is more appropriate to a family court division of Circuit Court.

➔Section 83. KRS 35.681 is amended to read as follows:

- (1) Any person subject to this code is guilty of rape and shall be punished as a court-martial may direct who commits a sexual act upon another person by:
 - (a) Using unlawful force against another person;
 - (b) Using force causing or likely to cause death or grievous bodily harm to any person;
 - (c) Threatening or placing that other person in fear that any person will be subject to death, grievous bodily harm, or kidnapping;
 - (d) First rendering that other person unconscious; or
 - (e) Administering to that other person by force or threat, or without the knowledge or consent of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct.
- (2) Any person subject to this code is guilty of sexual assault and shall be punished as a court-martial may direct who:

- (a) Commits a sexual act upon another person by:
 - 1. Threatening or placing that other person in fear;
 - 2. Causing bodily harm to that other person;
 - 3. Making a fraudulent representation that the sexual act serves a professional purpose; or
 - 4. Inducing a belief by an artifice, pretense, or concealment that the person is another person;
- (b) Commits a sexual act upon another person when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring; or
- (c) Commits a sexual act upon another person when the other person is incapable of consenting to the sexual act due to:
 - 1. Impairment by any drug, intoxicant, or other similar substance, and that condition is known or reasonably should be known by the person; or
 - 2. A mental disease or defect, or physical disability, and that condition is known or reasonably should be known by the person.
- (3) Any person subject to this code who commits or causes sexual contact upon or by another person, if to do so would violate subsection (1) of this section had the sexual contact been a sexual act, is guilty of aggravated sexual contact and shall be punished as a court-martial may direct.
- (4) Any person subject to this chapter who commits or causes sexual contact upon or by another person, if to do so would violate subsection (2) of this section had the sexual contact been a sexual act, is guilty of abusive sexual contact and shall be punished as a court-martial may direct.
- (5) In a prosecution under this section, in proving that a person made a threat, it need not be proven that the person actually intended to carry out the threat or had the ability to carry out the threat.

- (6) An accused may raise any applicable defenses available under this code or the Rules for Court-Martial. Matrimony~~[Marriage]~~ is not a defense for the conduct in issue in any prosecution under this section.
- (7) In this section:
- (a) "Sexual act" means:
1. Contact between the penis and the vulva or anus or mouth, and, for purposes of this subparagraph, contact involving the penis occurs upon penetration, however slight; or
 2. The penetration, however slight, of the vulva or anus or mouth of another by any part of the body or by any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person;
- (b) "Sexual contact" means:
1. Touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, or degrade any person; or
 2. Any touching, or causing another person to touch, either directly or through the clothing, any body parts of another person, if done with an intent to arouse or gratify the sexual desire of any person. Touching may be accomplished by any part of the body;
- (c) "Bodily harm" means any offensive touching of another, however slight, including any nonconsensual sexual act or nonconsensual sexual contact;
- (d) "Grievous bodily harm" means serious bodily injury. It includes fractures or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose;
- (e) "Force" means:

1. The use of a weapon;
 2. The use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person; or
 3. Inflicting physical harm sufficient to coerce or compel submission by the victim;
- (f) "Unlawful force" means an act of force done without legal justification or excuse;
- (g) "Threatening or placing that other person in fear" means a communication or action that is of sufficient consequences to cause a reasonable fear that noncompliance will result in the victim or another person being subjected to the wrongful action contemplated by the communication or action; and
- (h) "Consent":
1. The term "consent" means a freely given agreement to the conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue shall not constitute consent.
 2. A sleeping, unconscious, or incompetent person cannot consent. A person cannot consent to force causing or likely causing death or grievous bodily harm or to being rendered unconscious. A person cannot consent while under threat or fear or under the circumstances described in subsection (2)(a)3. and 4. of this section.
 3. Lack of consent may be inferred based on the circumstances of the offense. All the surrounding circumstances are to be considered in

determining whether a person gave consent, or whether a person did not resist or ceased to resist only because of another person's actions.

→Section 84. KRS 40.010 is amended to read as follows:

As used in this chapter, the following terms have the following respective meanings, unless another meaning is clearly required by the context:

- (1) "Administrator" means the adjutant general of the Commonwealth;
- (2) "Veteran" means a person who served in the active Armed Forces of the United States, during the Spanish American War, World War I, World War II, or the Korean conflict, for a period of ninety (90) days or more (exclusive of time spent AWOL; or in penal confinement as a result of a sentence imposed by court-martial; or in service for which no allowance is made according to KRS 40.040), with some portion of service within the respective hereinafter prescribed dates, who is still in the Armed Forces, or was released, separated, discharged, or retired therefrom under honorable conditions;
- (3) "Duty in active Armed Forces" includes active duty, and any period of inactive duty training during which the individual concerned was disabled; and if a person in the active Armed Forces was released, separated, or discharged therefrom by reason of disability incurred in line of duty before serving as much as ninety (90) days, such person shall be qualified for entitlement to a bonus payment under this chapter, notwithstanding failure to remain in service for the minimum time otherwise prescribed;
- (4) "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof on active duty;
- (5) "Qualified veteran" means a person answering to the specifications set forth in subsections (2) and (3), and who
 - (a) Was a resident of the Commonwealth at the time of entry into active service in the Armed Forces and for at least six (6) months prior thereto; and

- (b) Who has not received a bonus or like compensation from another state; and
 - (c) Who is not subject to the forfeiture provisions of this chapter;
- (6) "Resident of the Commonwealth at the time of entry into the active service" means any person who gave the Commonwealth of Kentucky, or any specific place in this Commonwealth, as his or her place of residence at such time of entry, without regard to the place of enlistment, commission, or induction. Conclusive and exclusive evidence of such giving of place of residence shall be the official records on file in the Department of Defense of the United States, or any official record thereof in the files of the Veterans Administration of the United States; but if it be shown to the satisfaction of the administrator that for any reason no such record was made, or that the same has been lost, misplaced, or destroyed, or that an authenticated copy thereof cannot be obtained within a reasonable time, other evidence of bona fide residence may be accepted if deemed sufficient by the administrator;
- (7) "Resident," in any context other than as in subsection (6), means a legal resident as determined by generally established principles of law, as may be defined, and subject to proof, according to such regulations as the administrator may promulgate;
- (8) "Beneficiary" means, in this order, widow, child or children (sharing equally), mother, father, and no other;
- (9) (a) "Widow" means a woman who was the wife of a veteran at the time of his death, and who had not deserted him (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the wife), and who had not entered into a subsequent matrimony~~[remarried]~~, (unless the purported entry into the matrimony~~[remarriage]~~ was void or had been annulled);
- (b) The term "widow" also includes "widower" in the case of a man who was the husband of a female veteran at the time of her death;

- (10) "Child" means a person:
- (a) Who is under the age of eighteen (18); or
 - (b) Who, before attaining the age of eighteen (18) years, became permanently incapable of self-support; or
 - (c) Who, after attaining the age of eighteen (18) years and until completion of education or training (but not after attaining the age of twenty-one (21) years) is pursuing a course of instruction at a bona fide educational institution; and who, in relationship to the veteran, is a child born in lawful wedlock; a legally adopted child; a stepchild who is a member of a veteran's household or was a member at the time of the veteran's death; or a child born out of wedlock, but, as to the alleged father, only if acknowledged in writing signed by him, or if he had, before his death, been judicially decreed to be the father of such child;
- (11) "Mother" means a mother, a mother through adoption, or a woman who for a period of not less than one (1) year stood in the relationship of a mother to a qualified veteran before his or her entry into active service in the Armed Forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the Armed Forces;
- (12) "Father" means a father, a father through adoption, or a man who for a period of not less than one (1) year stood in the relationship of a father to a qualified veteran before his or her entry into active service in the Armed Forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the Armed Forces;
- (13) "In the continental United States" means any place in the District of Columbia and the states of the United States which are on the North American continent, exclusive of Alaska;

- (14) "Outside the continental United States" means any place elsewhere than as defined in subsection (13);
- (15) "Spanish-American War":
- (a) Means the period beginning on April 21, 1898, and ending on July 4, 1902;
 - (b) Includes the Philippine Insurrection and the Boxer Rebellion; and
 - (c) In the case of a veteran who served with the United States military forces engaged in hostilities in the Moro Province, means the period beginning on April 21, 1898, and ending on July 15, 1903;
- (16) "World War I":
- (a) Means the period beginning on April 6, 1917, and ending on November 11, 1918; and
 - (b) In the case of a veteran who served with the United States military forces in Russia, means the period beginning on April 6, 1917, and ending on April 1, 1920; and
 - (c) Any service between April 6, 1917, and July 1, 1921, if some part thereof was between April 6, 1917, and November 11, 1918, both dates being inclusive;
- (17) "World War II" means the period beginning December 7, 1941, and ending December 31, 1946;
- (18) "Korean conflict" means the period beginning on June 27, 1950, and ending January 31, 1955;
- (19) "Bonus" and "veterans' bonus" means the compensation authorized by this chapter;
- (20) "Bonus claim" means a claim or potential claim for a veterans' bonus;
- (21) "Claimant" means one who seeks to obtain payment of a bonus claim.

➔Section 85. KRS 40.650 is amended to read as follows:

- (1) As used in this section:
- (a) "Department" means the Department of Veterans' Affairs; and
 - (b) "Veteran" means a person who served in the active Armed Forces of the

United States, including the Coast Guard of the United States, and was released, separated, discharged, or retired therefrom under honorable or general conditions.

- (2) A veterans' personal loan program trust fund is established to oversee and administer funds under the Veterans' Personal Loan Program.
- (3) (a) To be eligible for a loan under the Veterans' Personal Loan Program, an applicant shall be a resident of, and living in, the Commonwealth on the date of the application.
 - (b) 1. As used in this paragraph, "qualified" means having met loan conditions established by an administrative regulation promulgated by the department. However, the term of a loan shall not exceed ten (10) years.
 2. The department shall cause the veterans' personal loan program trust fund to lend a qualified veteran or deceased veteran's ~~unremarried~~ spouse who has not entered into a subsequent matrimony not more than ten thousand dollars (\$10,000), or a lesser amount established by an administrative regulation promulgated by the department, for:
 - a. The purchase of a home, business, or business property;
 - b. The education of the loan applicant or the loan applicant's spouse;
 - c. The payment of family medical or funeral expenses; or
 - d. The consolidation of debt.
 3. The department shall cause the veterans' personal loan trust fund to lend a qualified child of a veteran or parent or guardian of that child not more than ten thousand dollars (\$10,000), or a lesser amount established by an administrative regulation promulgated by the department, for the education of that child, who is under the age of twenty-seven (27), at a university, junior college, vocational training institute, or nonpublic school admitting children in preschool through grade twelve (12).

- (c) No person shall receive a loan under this section in an amount that, when added to the balance of the person's existing loan or loans under this section, would result in a total indebtedness to the veterans' personal loan program trust fund of more than ten thousand dollars (\$10,000), or a lesser amount established by an administrative regulation promulgated by the department.
- (4) (a) The veterans' personal loan program trust fund shall:
1. Execute necessary instruments; and
 2. Collect principal and interest.
- (b) The veterans' personal loan program trust fund may:
1. Compromise indebtedness;
 2. Sue and be sued;
 3. Post bonds;
 4. Write off indebtedness that it considers uncollectible;
 5. Exercise the rights of an owner and mortgagee if a loan provided under this section is secured by a real estate mortgage;
 6. Charge to a loan applicant loan expenses incurred under this section; and
 7.
 - a. Receive state appropriations, gifts, grants, federal funds, and any other funds both public and private.
 - b. Funds received, which are not necessary for the operation of the veterans' personal loan program trust fund, shall remain with the department to finance other department operations.
- (5) The department shall promulgate administrative regulations necessary to carry out the provisions of this section.
- ➔Section 86. KRS 61.542 is amended to read as follows:
- (1) Prior to the first day of the month in which the member receives his or her first retirement allowance and prior to the member filing a notification of retirement or a request for refund:

- (a) Each member may designate on the form prescribed by the board a principal beneficiary and contingent beneficiary for his or her account. The principal beneficiary or contingent beneficiary designated by the member shall be:
1. One (1) or more persons; or
 2. The member's estate; or
 3. A trust;
- (b) If multiple persons are designated as provided by paragraph (a)1. of this subsection, the member shall indicate the percentage of total benefits each person is to receive.
1. If percentages are not indicated, payments will be disbursed equally to the named beneficiaries.
 2. If the percentages indicated do not total one hundred percent (100%), each beneficiary shall receive an increased or decreased percentage which is proportional to the percentage allotted him or her by the member.
 3. If any of the multiple beneficiaries die prior to the member's death, the remaining beneficiaries shall be entitled to the deceased beneficiary's percentage of the total benefits, and each shall receive a percentage of the deceased's share which is equal to the percentage allotted them by the member; and
- (c) The principal and contingent beneficiary designation established by the member pursuant to paragraph (a) of this subsection shall remain in full force and effect until changed by the member, except:
1. A final divorce decree terminates an ex-spouse's status as beneficiary, unless the member has on file in the retirement office a beneficiary designation that redesignates the ex-spouse as beneficiary subsequent to the issuance of the divorce decree;

2. If a beneficiary or beneficiaries are convicted of any crime which prohibits that person or persons from receiving the benefits under KRS 381.280, the beneficiary or beneficiaries shall not be eligible for any of the benefits and the remaining beneficiary or beneficiaries or, if none, the member's estate, shall become the beneficiary;
 3. When a notification of retirement has been filed at the retirement office, the designation of beneficiary on the notification of retirement, which shall be one (1) person, his estate, or a trust, shall supersede the designation of all previous beneficiaries, unless the notification of retirement is withdrawn, invalid, or voided. If the notification of retirement is withdrawn, invalid, or voided, the prior beneficiary designation on file with the system shall remain in full force and effect until changed by the member; and
 4. When a request for refund has been filed at the retirement office, the member's estate shall become the member's beneficiary if the member dies.
- (2) If the member dies prior to the first day of the month in which the member would have received his or her first retirement allowance and prior to filing a notification of retirement or a request for refund, any retirement benefits shall be payable to the principal beneficiary, except that:
- (a) If the death of the principal beneficiary or beneficiaries precedes the death of the member, or if the principal beneficiary is terminated by a divorce decree, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries;
 - (b) If the principal beneficiary is one (1) person and is the member's spouse and they are divorced on the date of the member's death, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries;

- (c) If the member is survived by his principal beneficiary or beneficiaries who subsequently die prior to having on file at the retirement office the necessary forms prescribed under authority of KRS 61.590, the contingent beneficiary shall become the principal beneficiary or beneficiaries; and
 - (d) If the deaths of all the principal beneficiaries and all of the contingent beneficiaries precede the death of the member, the estate of the member becomes the beneficiary.
- (3) Prior to the first day of the month in which the member would have received his or her first retirement allowance, a monthly benefit payable for life shall not be offered if the beneficiary designated under subsection (1) of this section is more than one (1) person, the member's estate, or a trust.
- (4) When a notification of retirement has been filed at the retirement office:
- (a) The designation of beneficiary on the notification of retirement shall supersede the designation of all previous beneficiaries;
 - (b) The beneficiary designated by the member on the member's notification of retirement shall be one (1) person, the member's estate, or a trust; and
 - (c) If the death of the beneficiary named on the notification of retirement precedes the first day of the month in which the member receives his or her first retirement allowance, the member may designate another beneficiary on the member's notification of retirement.
- (5) After the first day of the month in which the member receives his or her first retirement allowance and subsequent thereto, a member shall not have the right to change his beneficiary, except that:
- (a) The estate of the retired member becomes the beneficiary if the date of death of the beneficiary precedes or coincides with the date of death of the retired member;
 - (b) The estate of the retired member becomes the beneficiary if the retired

member had designated a person as beneficiary who was the spouse or who later entered into matrimony with~~married~~ the member and they were divorced on the date of the retired member's death. An ex-spouse who was the named beneficiary on the member's notification of retirement shall be reinstated as the member's beneficiary for the payment options provided by KRS 61.635(2), (3), (4), and (8)(b) if they reentered into matrimony with~~are remarried to~~ each other as of the date of the retired member's death; and

- (c) The estate of the member shall not receive monthly payments if the member selected one (1) of the payment options provided by KRS 61.635(2), (3), (4), and (8)(b).

➔Section 87. KRS 64.012 is amended to read as follows:

The county clerk shall receive for the following services the following fees:

- (1) (a) Recording and indexing of a:
1. Deed of trust or assignment for the benefit of creditors;
 2. Deed;
 3. Real estate mortgage;
 4. Deed of assignment;
 5. Real estate option;
 6. Power of attorney;
 7. Revocation of power of attorney;
 8. Lease which is recordable by law;
 9. Deed of release of a mortgage or lien under KRS 382.360;
 10. United States lien;
 11. Release of a United States lien;
 12. Release of any recorded encumbrance other than state liens;
 13. Lis pendens notice concerning proceedings in bankruptcy;
 14. Lis pendens notice;

- 15. Mechanic's and artisan's lien under KRS Chapter 376;
- 16. Assumed name;
- 17. Notice of lien issued by the Internal Revenue Service;
- 18. Notice of lien discharge issued by the Internal Revenue Service;
- 19. Original, assignment, amendment, or continuation financing statement;
- 20. Making a record for the establishment of a city, recording the plan or plat thereof, and all other service incident;
- 21. Survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city;
- 22. Recording with statutory authority for which no specific fee is set, except a military discharge; and
- 23. Filing with statutory authority for which no specific fee is set.

For all items in this subsection if the entire thereof does not exceed three (3) pages\$12.00

And, for all items in this subsection exceeding three (3) pages, for each additional page\$3.00

And, for all items in this subsection for each additional reference relating to same instrument\$4.00

(b) The twelve dollar (\$12) fee imposed by paragraph (a) of this subsection shall be divided as follows:

- 1. Six dollars (\$6) shall be retained by the county clerk; and
- 2. Six dollars (\$6) shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk within ten (10) days following the end of the quarter in which the fee was received. Each remittance to the affordable housing trust fund shall be accompanied by a summary report on a form prescribed by the Kentucky Housing Corporation.

- (2) Recording and indexing a file-stamped copy of documents set forth in KRS 14A.2-040(1) or (2) that have been filed first with the Secretary of State:
 - (a) The entire record thereof does not exceed three (3) pages\$10.00
 - (b) And, exceeding three (3) pages, for each additional page\$3.00
- (3) Recording wills or other probate documents pursuant to KRS Chapter 392 or 394\$ 8.00
- (4) Recording court ordered name changes pursuant to KRS Chapter 401\$ 8.00
- (5) For noting a security interest on a certificate of title pursuant to KRS Chapter 186A\$12.00
- (6) For filing the release of collateral under a financing statement and noting same upon the face of the title pursuant to KRS Chapter 186 or 186A\$5.00
- (7) Filing or recording state tax or other state liens\$5.00
- (8) Filing release of a state tax or other state lien\$5.00
- (9) Marginal release, noting release of any lien, mortgage, or redemption other than a deed of release\$8.00
- (10) Acknowledging or notarizing any deed, mortgage, power of attorney, or other written instrument required by law for recording and certifying same\$4.00
- (11) Recording a land use restriction according to KRS 100.3681\$15.00
- (12) Recording plats, maps, and surveys, not exceeding 24 inches by 36 inches, per page\$20.00
- (13) Recording a bond, for each bond\$10.00
- (14) Each bond required to be taken or prepared by the clerk\$4.00
- (15) Copy of any bond when ordered\$3.00
- (16) Administering an oath and certificate thereof\$5.00
- (17) Issuing a license for which no other fee is fixed by law\$8.00

(18) Issuing a solicitor's license	\$15.00
(19) <u>Matrimony</u> [Marriage] license <u>or declaration of marriage</u> , indexing, recording, and issuing certificate thereof	\$24.00
(20) Every order concerning the establishment, changing, closing, or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not	\$3.00
(21) Registration of licenses for professional persons required to register with the county clerk	\$10.00
(22) Certified copy of any record	\$5.00
Plus fifty cents (\$.50) per page after three (3) pages	
(23) Filing certification required by KRS 65.070(2)(a)	\$5.00
(24) Filing notification and declaration and petition of candidates for Commonwealth's attorney	\$200.00
(25) Filing notification and declaration and petition of candidates for county and independent boards of education	\$20.00
(26) Filing notification and declaration and petition of candidates for boards of soil and water conservation districts	\$20.00
(27) Filing notification and declaration and petition of candidates for other office	\$50.00
(28) Filing declaration of intent to be a write-in candidate for office	\$50.00
(29) Filing petitions for elections, other than nominating petitions	\$50.00
(30) Notarizing any signature, per signature	\$2.00
(31) Filing bond for receiving bodies under KRS 311.310	\$10.00
(32) Noting the assignment of a certificate of delinquency and recording and indexing the encumbrance under KRS 134.126 or 134.127	\$27.00
(33) Filing a going-out-of-business permit under KRS 365.445	\$50.00

- (34) Filing a renewal of a going-out-of-business permit under KRS 365.445\$50.00
- (35) Filing a grain warehouseman's license under KRS 359.050\$10.00
- (36) Filing and processing a transient merchant permit under KRS 365.680\$25.00

➔Section 88. KRS 67A.230 is amended to read as follows:

- (1) Any urban-county government shall operate under KRS 67A.230 to 67A.350, and, by comprehensive plan or ordinance, create a civil service commission, which shall hold culture-fair, open examinations or evaluations to determine the relative fitness of applicants for municipal employment within the urban-county government that are designated by comprehensive plan or ordinance. The urban-county government shall, by ordinance, create civil service classifications for all employees consistent with the actual work to be performed by such employees.
- (2) The mayor, or other appointing authority, as determined by the comprehensive plan, subject to the approval of the urban-county government legislative body, shall appoint five (5) persons who shall constitute the civil service commission of that urban-county government. No appointee shall be related by either blood or matrimony~~[marriage]~~ to the mayor or any member of the urban-county legislative body. The appointees shall originally be appointed, two (2) for a term of two (2) years and three (3) for a term of four (4) years, and the successors to these appointees shall be appointed in like manner, each for a period of four (4) years and until his successor is appointed and qualified. A vacancy shall be filled for the unexpired term in the same manner as original appointments. There shall be chosen by the commission a secretary of the commission. The secretary shall be an employee of the urban-county government who is covered by the provisions of KRS 67A.220 to 67A.310. Each appointee shall qualify by taking an oath of office as required by law. The salaries, if any, of the members of the commission may be fixed by the urban-county government legislative body in accordance with its comprehensive plan.

- (3) If the appointing authority of any urban-county government fails to appoint a civil service commission within ninety (90) days after he has the power to so appoint or after a vacancy exists, the vice mayor, or the second ranking elected executive officer of the urban-county government, however designated, shall make the appointment and the appointee shall hold office until the expiration of the term and until his successor is appointed and qualified.
- (4) The civil service commission shall make and enforce culture-fair rules, not inconsistent with the provisions of KRS 67A.220 to 67A.310, or the comprehensive plan or the ordinance of the urban-county government, for examinations and registrations therefor.

➔Section 89. KRS 67A.440 is amended to read as follows:

- (1) (a) Upon death of a member due to occupational causes, regardless of length of service, his surviving widow shall be entitled immediately upon cessation of salary to an annuity equal to seventy-five percent (75%) of the member's last rate of salary. This annuity shall be payable until she dies. In addition, if any minor children of the member, under age eighteen (18), survive the member, the widow or parent or legal guardian shall receive on account of each child, ten percent (10%) of the member's last rate of salary until each child attains age eighteen (18). In the case of a child regularly engaged in full-time educational activities, payments shall continue until age twenty-three (23), but payments shall be made directly to a child between the ages of eighteen (18) and twenty-three (23). The combined payments to a widow and minor children shall not exceed one hundred percent (100%) of his final rate of salary. When more than one (1) child survives the member, the amount payable by reason of such children shall be divided equally among them.
- (b) Any surviving widow who is drawing a benefit pursuant to paragraph (a) of this subsection on July 1, 2013, that is less than the amount computed under

paragraph (a) of this subsection, shall have her retirement annuity increased to the amount determined under paragraph (a) of this subsection.

(2) If the member is not survived by a widow, or, if the widow enters into a subsequent matrimony~~[she remarries]~~, and there are minor children of the member, the following benefits shall be paid:

- (a) One (1) minor child, fifty percent (50%) of the final rate of salary;
- (b) Two (2) minor children, an additional fifteen percent (15%) of final salary;
- (c) Three (3) or more minor children, an additional ten percent (10%) of final salary, subject to a maximum combined payment of seventy-five percent (75%) of the member's final rate of salary.

These benefits shall be divided in equal amounts for each child and paid to the parent or legal guardian of each child under eighteen (18). In the case of a child regularly engaged in full-time educational activities, payments shall continue until age twenty-three (23), but payments shall be made directly to the child between the ages of eighteen (18) and twenty-three (23). As eligibility of children expires, the total annuity payment shall be reduced by percentage amount in reverse order.

(3) If neither a widow nor minor children eligible for benefits survive the member, each dependent parent shall be entitled to an annuity equal to twenty-five percent (25%) of the member's last rate of salary, or fifty percent (50%) to both parents.

➔Section 90. KRS 67A.450 is amended to read as follows:

(1) Upon death of a member occurring while in service, arising from any cause other than in the performance of duty, provided the member has had at least five (5) years of total service, his or her surviving spouse shall receive an annuity equal to one and one-half percent (1-1/2%) of average salary for each year of total service, credited to the member, but not less than fifteen percent (15%) of average salary, subject to the following conditions:

- (a) The surviving spouse had entered into matrimony with~~[been married to]~~ the

- member at least six (6) months prior to his or her death;
- (b) The surviving spouse's annuity will terminate in any event when the surviving spouse dies. The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly engaged in full-time educational activities the age of twenty-three (23).
- (2) If, in addition to a surviving spouse, minor children survive the member, an additional annuity shall be payable for such children equal to fifty percent (50%) of the amount of the surviving spouse's annuity for the first child, and twenty-five percent (25%) of the amount of the surviving spouse's annuity for each additional child, subject to a maximum combined payment for the surviving spouse and children of seventy-five percent (75%) of the member's average salary. The annuity payable for minor children shall be divided and paid in equal amounts for each child to the parent or guardian of each child under eighteen (18), and directly to each child between the ages of eighteen (18) and twenty-three (23) who is regularly engaged in full-time educational activities. As eligibility of children expires, the total annuity payable for such children shall be reduced by percentage amount in reverse order.
- (3) If the member is not survived by a surviving spouse who qualifies under KRS 67A.450(1)(a) and there are minor children, the following benefits shall be paid:
- (a) one (1) minor child, fifty percent (50%), (b) two (2) minor children, fifteen percent (15%) additional, (c) three (3) or more minor children ten percent (10%) additional, subject to a maximum combined payment of seventy-five percent (75%) of the average salary as defined in KRS 67A.360(13). The benefits payable for minor children shall be divided and paid in equal amounts for each child to the parent or legal guardian of each child under the age of eighteen (18), and directly to each child between the ages of eighteen (18) and twenty-three (23) who is regularly engaged in full-time educational activities. The annuity of each child or children

shall continue until each child attains age eighteen (18), or, in the case of a child regularly engaged in full-time educational activities the age of twenty-three (23). The annuity payments shall be reduced in reverse order, as provided in subsection (2) of this section.

➔Section 91. KRS 67A.492 is amended to read as follows:

- (1)
 - (a) Upon the death of a retired member, his or her surviving spouse shall receive an annuity equal to sixty percent (60%) of the member's final annuity, or of the member's final rate of pay, whichever is greater.
 - (b) Upon the death of a member who withdraws on a certificate as provided by KRS 67A.410(3)(a) or (b), his or her surviving spouse shall receive an annuity equal to sixty percent (60%) of the member's service retirement annuity.
 - (c) The surviving spouse must have entered into matrimony with~~been married to~~ the member for at least three (3) years prior to the member's death or six (6) months prior to the member's retirement or withdrawal on a certificate as provided by KRS 67A.410(3)(a) or (b), in order to be eligible for the benefits provided in this section. Effective April 4, 2006, the benefits provided by this section shall be made eligible to surviving spouses of any retired member who died on July 14, 2000, or thereafter.
- (2) Any member who retires on July 15, 1990, or thereafter, and any member who withdraws on a certificate as provided by KRS 67A.410(3)(a) or (b), shall have the option at retirement or upon application for a certificate to purchase an increased annuity allowance for his or her surviving spouse. The amount of any such optional survivorship allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member. The member may elect either of two (2) options:
 - (a) Survivorship seventy-five percent (75%). The member may elect to receive a decreased retirement allowance during his or her lifetime and have seventy-

five percent (75%) of such retirement allowance continue after the member's death to his or her eligible surviving spouse until the surviving spouse's death.

- (b) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his or her lifetime and have such retirement allowance continued at the same rate after the member's death to his or her eligible surviving spouse until the surviving spouse's death.

➔Section 92. KRS 67C.305 is amended to read as follows:

- (1) The mayor, subject to the approval of the legislative council of the consolidated local government, shall appoint five (5) persons, who shall constitute the consolidated local government police force merit board of the consolidated local government. The members of the board shall serve without compensation. Each board appointee shall be at least thirty (30) years of age, a resident of the consolidated local government, and not related by either blood or matrimony~~[marriage]~~ to either the mayor or any member of the legislative council of the consolidated local government. The first members of the board shall be appointed within thirty (30) days of the effective date of the ordinance creating a consolidated local government police force merit system and merit board. One (1) member of the board shall be appointed for a term of one (1) year, one (1) for a term of two (2) years, two (2) for a term of three (3) years, and one (1) for a term of four (4) years. Thereafter, all appointments shall be for four (4) years except that an appointment to fill a vacancy on the board shall be made only for the unexpired term of the vacated position. Any board member may be removed by resolution of the legislative council of the consolidated local government for neglect, incapacity, misfeasance, or malfeasance on the part of a board member. No appointed board member shall hold any other public office, elective or appointive, during his or her term as a member of the board, and shall not receive any money, gift, or consideration of any type from any person, directly or indirectly, for or on account

of any recommendation, proposal, or suggestion bearing upon the business of the board or the consolidated local government police force. Not more than three (3) members shall be members of the same political party.

- (2) Each appointee, before entering upon the discharge of his or her duties, shall qualify by subscribing, taking, and filling an oath of office as required by law.
- (3) The officers of the consolidated local government police forces shall elect, for a two (2) year term, two (2) police officers of the consolidated police forces with a minimum of five (5) or more years' service who shall serve as members of the board for the purpose of deciding discipline cases only, and who may vote in these cases. In case of a vacancy in a position held by a police officer, a new election shall be held within sixty (60) days of the date the vacancy occurs and the person elected shall fill the remainder of the original unexpired term.

➔Section 93. KRS 78.410 is amended to read as follows:

- (1) The county judge/executive, subject to the approval of the fiscal court of the county, shall appoint four (4) persons, who shall constitute the county police force merit board of such county, who shall serve without compensation, and the county judge/executive shall be a member ex officio of the said board, but shall only vote in case of a tie vote on any matter before the board for determination. Each board appointee shall be at least thirty (30) years of age, a resident of the county affected, and not related by either blood or matrimony~~[marriage]~~ to either the county judge/executive or any member of the fiscal court of the said county. The first members of any said board shall be appointed within the thirty (30) day period following the effective date of an order duly made and entered by a fiscal court creating a county police force merit system and merit board, and one (1) member of the board shall be appointed for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, and one (1) for a term of four (4) years. Thereafter, all appointments shall be for four (4) years except that appointments to

fill vacancies within the respective terms shall be made only for the unexpired period of the respective terms. Any board member may be removed by resolution of the fiscal court of the county for neglect, incapacity, misfeasance or malfeasance on the part of said board members. No appointed board member shall hold any other public office elective or appointive during his term as a member of the board, and shall not receive any money, gift or consideration of any type from any person directly or indirectly for or on account of any recommendation, proposal or suggestion bearing upon the business of the board or the county police force. Not more than two (2) members shall be adherents of the same political party.

- (2) Each appointee, before entering upon the discharge of his duties, shall qualify by subscribing, taking and filing an oath of office as required by law.
- (3) The members of the county police department shall elect for a two (2) year term two (2) patrolmen of the county police department with a minimum of five (5) years service or more who shall serve as members of the county police force merit board for the purpose of deciding discipline cases only and who may vote in such cases. These members shall be elected during the month of July, 1978. In case of a vacancy, a new election shall be held within sixty (60) days of the date when the vacancy occurs and the person elected shall fill the remainder of the unexpired term.

➔Section 94. KRS 90.310 is amended to read as follows:

- (1) Except as provided in subsection (5) of this section, any city of the home rule class may elect to operate under KRS 90.310 to 90.410, and, by ordinance, create a civil service commission which shall hold examinations as to the qualifications of applicants for municipal employment within the several departments of the city that are designated by ordinance. In all cities of the home rule class, the city may, by ordinance, classify employees and designate the class of employees it desires to include.
- (2) The mayor, subject to the approval of the city legislative body, shall appoint at least

three (3) but no more than five (5) persons who shall constitute the civil service commission of that city. Each appointee shall be at least thirty (30) years of age and not related by either blood or matrimony~~[marriage]~~ to the mayor or any member of the city legislative body. The appointees shall originally be appointed one (1) for a term of three (3) years, one (1) for a term of two (2) years and all remaining appointments shall be for a term of one (1) year, and the successors to these appointees shall be appointed in like manner, each for a period of three (3) years and until his successor is appointed and qualified. A vacancy shall be filled for the unexpired term in the same manner as original appointments. At the time of any appointment, if the mayor elects to appoint only three (3) commissioners, not more than two (2) commissioners shall be adherents of the same political party. If the mayor elects to appoint more than three (3) commissioners not more than three (3) commissioners shall be adherents of the same political party. The appointee originally appointed for the term of three (3) years shall be secretary of the commission. Each appointee shall qualify by taking an oath of office as required by law. The salaries of the members of the commission may be fixed by the city legislative body.

- (3) If the appointing authority of any city fails to appoint a civil service commission within thirty (30) days after he has the power to so appoint or after a vacancy exists, the mayor pro tem shall make the appointment and the appointee shall hold office until the expiration of the term and until his successor is appointed and qualified.
- (4) The civil service commission shall make and enforce rules, not inconsistent with the provisions of KRS 90.310 to 90.410 or the ordinances of the city, for examinations and registrations therefor.
- (5) No city shall adopt an ordinance pursuant to this section to create a civil service commission during the months of November or December in any even-numbered year.

- (6) Any city that creates a civil service commission pursuant to this section may repeal or amend the ordinance at the discretion of the city legislative body. The city legislative body shall not repeal any provisions of the ordinance governing the maintenance of a pension fund.

➔Section 95. KRS 95.550 is amended to read as follows:

- (1) The pensions or benefits paid for disability or death from the policemen's and firefighters' pension fund established under KRS 95.520 shall be as follows:
- (a) If any member of the police or fire department becomes temporarily totally disabled, physically or mentally, while in the performance of duty and by reason of service in the department, the board of trustees of the pension fund shall order paid to him monthly, during his disability but not longer than one (1) year, a sum of not more than sixty dollars (\$60) per month, the amount to be determined by the board. This provision shall not apply if a salary is paid during the same period. Provided, however, that the provisions of this paragraph shall not apply unless the disabled firefighter or policeman has served from one (1) day to ten (10) years consecutively in his department, such period of service to be fixed by the board of trustees;
- (b) If any member of the police or fire department becomes permanently disabled, physically or mentally, while in the performance of duty and by reason of service in the department, so as to render necessary his retirement from service in the department, the board of trustees shall retire him from service and order paid to him monthly fifty percent (50%) of his monthly salary at the time of his retirement. Provided, however, that the provisions of this paragraph shall not apply unless the disabled firefighter or policeman has served from one (1) day to ten (10) years consecutively in his department, such period of service to be fixed by the board; and
- (c) If any member of the police or fire department is killed or dies as the result of

an injury received in the performance of duty, or dies of any disease contracted by reason of his occupation, or dies while in the service from any cause as a result of his service in the department, or dies in service or while on the retired list from any cause after fifteen (15) consecutive years of service in the department, and leaves a widow, widower, or a child under eighteen (18) years of age, the board of trustees shall order a pension paid to the widow, widower, or child. There shall be paid monthly to the widow or widower, while he or she refrains from entering into a subsequent matrimony~~[unmarried]~~, a pension of not less than thirty dollars (\$30), or not more than fifty percent (50%) of the deceased's monthly salary at the time of retirement or death and for each child until it reaches the age of eighteen (18) years, not less than six dollars (\$6) or not more than ten percent (10%) of the deceased's monthly salary, such amount to be determined by the board of trustees. The board may provide a minimum benefit of no more than four hundred dollars (\$400) per month, initially, to the surviving spouse if the benefit can be supported on an actuarially-sound basis by the pension fund. The board may increase the minimum benefit pursuant to the provisions of KRS 95.560. If the deceased member had not entered into matrimony and was ~~[unmarried and]~~ childless, a pension shall be paid to his dependent father and mother of not less than thirty dollars (\$30) or not more than twenty percent (20%) of the deceased's monthly salary. If one (1) parent is dead, the other shall receive the entire amount, and if both are living, each shall receive one-half (1/2) the amount, such amount to be determined by the board of trustees.

- (2) No person shall receive a pension from the policemen's and firefighters' pension fund except as provided in this section.

➔Section 96. KRS 95.624 is amended to read as follows:

- (1) In cities that have adopted the alternative pension fund provisions authorized by KRS 95.621, any member of the police or fire department having served twenty (20) years or longer in the police or fire department may petition the board of trustees for retirement; and if his petition is granted, the board may order paid to him monthly fifty percent (50%) of his monthly salary at the time of retirement. If this petition for retirement is denied, any policeman or firefighter has the right of appeal in accordance with the Rules of Civil Procedure.
- (2) The pension payable for periods of service between twenty (20) and twenty-five (25) years shall be fifty percent (50%) of salary plus two percent (2%) of salary for each year in excess of twenty (20). The pension payable for twenty-five (25) years of service shall be sixty percent (60%) of salary. The pension payable for periods of service between twenty-five (25) and thirty (30) years shall be sixty percent (60%) of salary plus three percent (3%) of salary for each year in excess of twenty-five (25). The pension payable for thirty (30) years of service shall be seventy-five percent (75%) of salary.
- (3) The pensions or benefits paid for disability or death from the policemen's and firefighters' pension fund created under KRS 95.622 shall be as follows:
 - (a) If any member of the police and fire department becomes temporarily totally disabled, physically or mentally, the board of trustees of the pension fund shall order paid to him monthly, during his disability, until he has recovered and returned to active duty, a sum of not more than one-half (1/2) his salary per month, the amount to be determined by the board. This provision shall not apply if a salary is paid during the same period.
 - (b) If any member of the police or fire department becomes permanently disabled, physically or mentally, so as to render necessary his retirement from service in the department, the board of trustees shall retire him from service and order paid to him monthly fifty percent (50%) of his monthly salary at the time of

his retirement.

- (c) If any member of the police or fire department is killed or dies as the result of an injury received in the performance of duty, or dies of any disease contracted by reason of his occupation, or dies while in the service from any cause as a result of his service in the department, or dies in service or while on the retired list from any cause after one (1) year of service in the department and leaves a widow, widower, or a child under eighteen (18) years of age, the board of trustees shall order a pension paid to the widow, or widower, while he or she refrains from entering into a subsequent matrimony~~[unmarried]~~, of one-half (1/2) of salary per month and for each child until it reaches the age of eighteen (18) years, twenty-four dollars (\$24) per month. The board may provide a minimum benefit of no more than four hundred dollars (\$400) per month, initially, to the surviving spouse if the benefit can be supported on an actuarially-sound basis by the fund. The board may increase the minimum benefit pursuant to the terms of subsection (4) of this section. If the deceased member had not reentered into matrimony and was ~~[unmarried and~~ ~~]childless~~, a pension shall be paid to his dependent father and mother of one-fourth (1/4) of salary per month. If one (1) parent is dead, the other shall receive the entire one-fourth (1/4) salary.
- (4) In order to adjust retirement benefits to the purchasing power of the dollar, the board shall if it is actuarially feasible annually order an increase in benefits paid pursuant to this section. The board shall if it is actuarially feasible order an increase in benefits by an amount equal to the increase in the cost-of-living increase for a recipient of Social Security, but the annual increase shall not exceed five percent (5%).
- (5) The board may provide a group hospital and medical insurance plan for retirees and their spouses who have not reached the age to qualify for federal Medicare, if

providing insurance will not jeopardize the capacity of the board to pay retirement and survivor benefits. No insurance shall be provided for persons who are entitled to Medicare benefits or are receiving Medicare benefits, except that supplemental health insurance may be provided to those retirees and their spouses who are entitled to Medicare benefits or are receiving Medicare benefits if providing the supplemental health insurance will not jeopardize the capacity of the board to pay other existing retirement and survivor benefits.

➔Section 97. KRS 95.773 is amended to read as follows:

If any member of the police or fire department, while in the performance of his duty, becomes temporarily, totally disabled, physically or mentally, for services by reason of service in such departments, the board of trustees shall order the payment to such disabled member, monthly during such disability, not to exceed one (1) year, from such pension fund, not exceeding sixty dollars (\$60) per month, the said amount to be determined by the board of trustees, provided such member, during the same period, is paid no salary as such member. If any member of the police or fire departments, while in the performance of his duty, becomes mentally or physically permanently disabled by reason of service in either of said departments so as to render necessary his retirement from service in either of said departments, said board of trustees shall retire such disabled member from service in either of said departments, provided no such retirement on account of disability shall occur unless said member has contracted said disability while on duty in the service of said police or fire department, and upon such retirement the board of trustees shall order the payment to such disabled member of such police or fire department, monthly, from such pension fund, a sum equal to one-half (1/2) of the monthly salary such member was receiving at the date of his retirement, provided such member has had twelve (12) or more years' constant service in either of said departments. Any member of the said police or fire departments who has less than twelve (12) years of constant service in the said department and becomes disabled for service and eligible for retirement under this section

shall receive monthly such sum from such pension fund fixed by the board of said trustees any amount not to exceed one-half (1/2) of the amount which such member of the police or fire department was receiving in monthly salary at the date of his retirement. If any member of said police or fire department shall, while in the performance of his duty, be killed or die as a result of an injury received in the line of his duty, or of any disease contracted by reason of his occupation, or shall die from any cause whatsoever as a result of his services in either of said departments, and while in said service, or after having served continuously for twelve (12) years shall die while in the service or on the retired list from any cause, and shall leave a widow, widower, or child or children under the age of fourteen (14) years, said board of trustees shall direct the payment from said pension fund, monthly, to such widow or widower, while he or she refrains from entering into a subsequent matrimony~~unmarried~~, a sum equal to one-half (1/2) of the monthly salary or pension payment such member was receiving at the date of his death, and for each child until it reaches the age of fourteen (14) years, six dollars (\$6), and to the dependent father and mother to be paid as follows: If the father be dead, the mother shall receive thirty dollars (\$30), and if the mother be dead, the father shall receive thirty dollars (\$30), and if both be living, each shall receive fifteen dollars (\$15). The board may provide a minimum benefit of no more than four hundred dollars (\$400) per month, initially, to the surviving spouse if the benefit can be supported on an actuarially-sound basis by the pension fund. When Social Security benefits are increased, the board may increase the surviving spouse's minimum by a like percentage, but the increase shall not exceed five percent (5%).

➔Section 98. KRS 95.860 is amended to read as follows:

- (1) Upon death of a member due to occupational causes, regardless of length of service, his surviving widow shall be entitled immediately upon cessation of salary or annuity, as the case may be, to an annuity equal to fifty percent (50%) of the member's last rate of salary plus the total increase the retired member may have

received in his annuity pursuant to KRS 95.859(3). This annuity shall be payable until she dies or enters into a subsequent matrimony~~[remarries]~~. No surviving widow shall receive an annuity of less than one hundred fifty dollars (\$150) per month. The board may increase the minimum benefit to no more than five hundred dollars (\$500) per month if the increase can be supported on an actuarially sound basis by the fund. When Social Security benefits are increased, the minimum shall be increased by a like percentage, provided the increase shall not exceed five percent (5%). In addition, if minor children under age eighteen (18) survive the member, the widow shall receive twenty-five percent (25%) of the member's last rate of salary until the last child attains age eighteen (18). The combined payments to a widow and minor children, excluding cost-of-living increases or increases in the survivor benefit due to increases the retired member may have received in his annuity pursuant to KRS 95.859(3), shall not exceed seventy-five percent (75%) of his final rate of salary.

- (2) If a widow does not survive the member, or if she enters into a subsequent matrimony~~[remarries]~~, and minor children under age eighteen (18) exist, the children shall be entitled to the benefits provided in KRS 95.861(3).
- (3) If neither a widow nor minor children eligible for benefits survive the member, each dependent parent shall be entitled to an annuity equal to twenty-five percent (25%) of the member's last rate of salary, or fifty percent (50%) to both parents.
- (4) If a widow would receive from a combination of:
 - (a) Survivor benefits pursuant to this section, excluding benefits for minor children or increases in the survivor benefit due to increases the retired member may have received in his annuity pursuant to KRS 95.859(3); and
 - (b) Workers' compensation benefits, excluding dependent children's allowances or payments for medical expenses or legal fees related to the workers' compensation claim, an amount greater than one hundred percent (100%) of

the deceased member's last rate of salary, then the pension system survivor benefits shall be reduced to the point that the combined payments equal one hundred percent (100%) of the last rate of salary. The survivor benefit shall not be reduced, however, below an amount equal to two and one-half percent (2.5%) of average salary for each year of the deceased member's service. Any reduction in the survivor payment shall be based upon workers' compensation benefits applicable at the time the survivor payment is granted, and not upon subsequent increases in either benefit. If workers' compensation benefits are reduced at a subsequent time, the surviving spouse shall inform the board, and the board shall increase the survivor's benefit by the amount of the reductions, but not by more than an amount which would increase the survivor's benefit to fifty percent (50%) of last rate of salary, excluding cost-of-living increases or increases in the survivor benefit due to increases the retired member may have received in his annuity pursuant to KRS 95.859(3). The board of trustees may pay estimated benefits to a surviving spouse, upon qualification for the benefits, based upon an estimate of workers' compensation benefits until such amounts are actually determined, at which time a final calculation of the spouse's actual benefits shall be determined and the account corrected retroactive to the effective date of the survivor benefit. If workers' compensation benefits are paid in lump sums, the board shall reduce the survivor benefit on a monthly rather than a lump-sum basis. The amount of the monthly reduction shall be based upon the life expectancy of the survivor. The board may request the assistance of the general manager of Kentucky Retirement Systems to calculate the reduction in survivor benefits when lump-sum payments are involved, and the general manager shall provide such assistance upon request.

- (5) A surviving child or parent receiving benefits pursuant to this section shall receive the same cost-of-living increase granted to retirees pursuant to KRS 95.859(3). A

surviving spouse who does not receive an increase pursuant to subsection (1) of this section or whose pension increase pursuant to the Social Security increase is less than the cost-of-living increase in KRS 95.859(3) shall receive the same increase an annuitant receives pursuant to KRS 95.859(3), not to exceed a total of five percent (5%).

➔Section 99. KRS 95.861 is amended to read as follows:

- (1) Upon death of a member occurring while in service, arising from any cause other than in the performance of duty, provided the member has had at least three (3) years of total service, his widow shall receive an annuity equal to one and one-half percent (1-1/2%) of average salary for each year of total service, credited to the member, plus the total increase the retired member may have received in his retirement annuity pursuant to KRS 95.859(3), subject to a maximum payment, excluding cost-of-living increases of the member or the widow, to the widow of fifty percent (50%). If the member has had at least ten (10) years of total service, the widow shall receive an annuity of no less than one hundred fifty dollars (\$150) per month. The board may increase the minimum benefit to not more than five hundred dollars (\$500) per month if the increase can be supported on an actuarially sound basis by the fund. When Social Security benefits are increased, the minimum shall be increased by a like percentage, but the increase shall not exceed five percent (5%). Payment of the annuity shall be subject to the following conditions:
 - (a) The widow had entered into matrimony with~~been married to~~ the member at least one (1) year prior to his death;
 - (b) The widow is at least forty-five (45) years of age, otherwise payment will be deferred until she attains such age, except that if she is or becomes totally disabled before age forty-five (45), or has a minor child or children by the member in her care under age eighteen (18) (including adopted children provided the proceedings for adoption were initiated at least one (1) year prior

to death of member), payment of the widow's annuity will begin immediately together with an additional allowance on account of the child or children; and

- (c) The widow's annuity will terminate in any event when the widow enters into a subsequent matrimony~~[remarries]~~. The annuity of each child or children shall continue until each child attains age eighteen (18).
- (2) If the widow has minor children under age of eighteen (18), the annuity to the widow shall be increased one-half (1/2) on account of the first child and one-fourth (1/4) on account of each additional child, subject to a maximum combined payment, excluding cost-of-living increases or increases the retired member may have received in his annuity pursuant to KRS 95.859(3), to the widow and children of seventy-five percent (75%) of the average salary as defined in KRS 95.851(13).
- (3) If the pensioner is not survived by a widow and there are minor children, the following benefits shall be paid:
- (a) One (1) minor child, fifty percent (50%) of the average salary plus the total increase the retired member may have received in his annuity pursuant to KRS 95.859(3);
- (b) Two (2) minor children, fifteen percent (15%) of the average salary additional;
or
- (c) Three (3) or more minor children, ten percent (10%) of the average salary additional,
- subject to a maximum combined payment, excluding cost-of-living increases of the member or the minor children, of seventy-five percent (75%) of the average salary as defined in KRS 95.851(13). The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly employed in full-time educational activities the age of twenty-three (23). The annuity payments shall be reduced in reverse order.
- (4) These benefits shall also be payable upon death of the member while on retirement,

provided the matrimony~~[marriage]~~ was in effect for at least one (1) year before death.

- (5) A surviving child receiving benefits pursuant to this section shall receive the same cost-of-living increases granted to retirees pursuant to KRS 95.859(3). A surviving spouse who does not receive an increase pursuant to subsection (1) of this section or whose pension increase pursuant to the Social Security increase is less than the cost of living increase in KRS 95.859(3) shall receive the same increase an annuitant receives pursuant to KRS 95.859(3), not to exceed a total of five percent (5%).

➔Section 100. KRS 95.865 is amended to read as follows:

- (1) Upon death of a member, occurring while in active service, if no widow's annuity or children's annuities are payable, the designated beneficiary of the member or his estate shall be entitled to a death benefit equal to the total contributions made by the member, including those employee contributions picked up by the employer pursuant to KRS 65.155, without interest, or three hundred dollars (\$300), whichever is greater.
- (2) Upon death of a retired member, if no widow's annuity or children's annuities shall be due or payable, a death benefit shall be paid to the designated beneficiary or estate of the member, equal to the excess, if any, of the total contributions made by the member to this fund to the date of retirement, including those employee contributions picked up by the employer pursuant to KRS 65.155, without interest, over the total annuity payments received by the member. The minimum payment in such case shall be three hundred dollars (\$300). If a widow's annuity or children's annuities are payable after the death of the retired member, the amount of such death benefit, if any, shall be determined upon termination of annuity payments to all survivors of the member, whether such termination occurs by death, entry into a subsequent matrimony~~[remarriage]~~ or other cause.

➔Section 101. KRS 98.013 is amended to read as follows:

- (1) On and after July 1, 1952 a city of the first class shall have a lien upon all real estate and rights to real estate belonging to or thereafter acquired by any recipient of general assistance through said city's department of public welfare. The lien shall become effective upon the first payment of assistance to the recipient after June 19, 1952, and shall be cumulative and shall include all amounts paid to the recipient. The lien shall continue until it is satisfied, or becomes unenforceable.
- (2) The lien shall not be effectual as against any mortgage, purchaser, or judgment creditor without actual notice until notice thereof has been filed by the director of public welfare of the city in the office of the county clerk of the county in which the property is located. Such notice, from the date of the filing thereof, shall constitute notice of all payments of assistance, whether paid prior or subsequent to the date of the filing of the notice. Such notice shall be filed by the director of public welfare in those cases in which it is discovered that the recipient has sufficient real estate to justify the filing of such a notice.
- (3) The director of public welfare shall file an adequate notice of the existence of the lien provided for by this section which notice shall not specify the amount of assistance paid but the director of public welfare shall furnish to any authorized person upon proper request the total amount of the lien as of the date of the inquiry.
- (4) The county clerk shall file, record and index such notices as other liens on real estate are required by law to be filed, recorded and indexed but shall index said lien only in the name of the recipient. The lien shall be designated "City's Lien."
- (5) The clerk shall be entitled to a fee pursuant to KRS 64.012 for filing and indexing the lien. The department of public welfare of the city shall pay the fee but the fee shall become a part of the lien as an added cost to the recipient to be recovered at the time a lien is satisfied.
- (6) The lien shall not be enforceable while the real estate is occupied by the surviving spouse or until she enters into a subsequent matrimony~~remarries~~, or is occupied

by a dependent child, provided, no other action is brought to settle the estate.

- (7) In any case in which it appears that it would be to the best interest of the recipient to sell his real estate and reinvest the proceeds in other real estate, the department of public welfare of the city may grant permission and waive the lien to the extent necessary for the purpose of effecting the transfer but such lien shall attach to the reinvested property.
- (8) Any claim under KRS 98.011 to 98.014 may be precipitated and the lien provided by this section may be enforceable during the lifetime of any person who has received general assistance in order to recover any amount obtained as a result of such person knowingly making a false statement or representation or knowingly failing to disclose a fact to procure, increase, or continue any material benefit for himself.

➔Section 102. KRS 116.035 is amended to read as follows:

The following rules, so far as applicable, shall be observed in determining the residence of a person offering to vote:

- (1) A voter's residence shall be deemed to be at the place where his or her habitation is, and to which, when absent, he or she has the intention of returning;
- (2) A voter shall not lose his or her residence by absence for temporary purposes merely; nor shall he or she obtain a residence by being in a county or precinct for such temporary purposes, without the intention of making that county or precinct his or her home;
- (3) A voter shall lose his or her residence by removal to another state or county with intention to make his or her permanent residence there, or by removal to and residence in another state, with intention to reside there an indefinite time, or by voting there, even though he or she may have had the intention to return to this state at some future period;
- (4) The place where the family of a ~~married~~ person **who is a party to a matrimony**

resides shall generally be considered his or her residence, unless the family so resides for a temporary purpose. If his family is permanently in one (1) place, and he or she transacts business in another, the former shall be the residence.

➔SECTION 103. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) The determination of whether an individual is in a matrimonial relationship shall be made as of the close of the taxable year, except that if an individual in a matrimonial relationship dies during the taxable year, the determination shall be made as of the time of death.

(2) An individual legally separated under a decree of divorce or of separate maintenance shall not be considered as being an individual in a matrimonial relationship.

(3) An individual shall not be considered in a matrimonial relationship if:

(a) The individual is legally in a matrimonial relationship;

(b) The individual files a separate return;

(c) The individual maintains a household which is the principal place of abode for a child constituting more than one-half (1/2) of the taxable year;

(d) The individual furnishes over one-half (1/2) of the cost of maintaining that household during the taxable year; and

(e) During the last six (6) months of the taxable year, the other individual in the matrimonial relationship is not a member of that household.

➔Section 104. KRS 141.020 is amended to read as follows:

(1) An annual tax shall be paid for each taxable year by every resident individual of this state upon his entire net income as defined in this chapter. The tax shall be determined by applying the rates in subsection (2) of this section to net income and subtracting allowable tax credits provided in subsection (3) of this section.

(2) (a) For taxable years beginning before January 1, 2005, the tax shall be

determined by applying the following rates to net income:

1. Two percent (2%) of the amount of net income up to three thousand dollars (\$3,000);
2. Three percent (3%) of the amount of net income over three thousand dollars (\$3,000) and up to four thousand dollars (\$4,000);
3. Four percent (4%) of the amount of net income over four thousand dollars (\$4,000) and up to five thousand dollars (\$5,000);
4. Five percent (5%) of the amount of net income over five thousand dollars (\$5,000) and up to eight thousand dollars (\$8,000); and
5. Six percent (6%) of the amount of net income over eight thousand dollars (\$8,000).

(b) For taxable years beginning after December 31, 2004, the tax shall be determined by applying the following rates to net income:

1. Two percent (2%) of the amount of net income up to three thousand dollars (\$3,000);
2. Three percent (3%) of the amount of net income over three thousand dollars (\$3,000) and up to four thousand dollars (\$4,000);
3. Four percent (4%) of the amount of net income over four thousand dollars (\$4,000) and up to five thousand dollars (\$5,000);
4. Five percent (5%) of the amount of net income over five thousand dollars (\$5,000) and up to eight thousand dollars (\$8,000);
5. Five and eight-tenths percent (5.8%) of the amount of net income over eight thousand dollars (\$8,000) and up to seventy-five thousand dollars (\$75,000); and
6. Six percent (6%) of the amount of net income over seventy-five thousand dollars (\$75,000).

(3) (a) For taxable years beginning before January 1, 2014, the following tax credits,

when applicable, shall be deducted from the result obtained under subsection (2) of this section to arrive at the annual tax:

1. Twenty dollars (\$20) for an ~~unmarried~~ individual **who is not in a matrimonial relationship**;
2. Twenty dollars (\$20) for a ~~married~~ individual **who is in a matrimonial relationship** filing a separate return and an additional twenty dollars (\$20) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars (\$40) for ~~married~~ persons **who are in a matrimonial relationship** filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of ~~matrimonial~~~~marital~~ **matrimonial** status for the purpose of this section shall be made **as provided in Section 103 of this Act**~~in the manner prescribed in Section 153 of the Internal Revenue Code~~;
3. Twenty dollars (\$20) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his spouse;
4. An additional forty dollars (\$40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;
5. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
6. An additional forty dollars (\$40) credit if the taxpayer is blind at the close of the taxable year;

7. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
8. In the case of nonresidents, the tax credits allowable under this subsection shall be the portion of the credits that are represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in (f) and (g) of that subsection, to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a ~~married~~ nonresident taxpayer **who is in a matrimonial relationship** with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:
 - a. The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or
 - b. Prorating the taxpayer's tax credit(s) plus the tax credits for the taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in (f) and (g) of that subsection, to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse;
9. In the case of an individual who becomes a resident of Kentucky during the taxable year, the tax credits allowable under this subsection shall be the portion of the credits represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by subsection (10) of

- KRS 141.010, without the adjustments contained in paragraphs (f) and (g) of that subsection, to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code;
10. In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars (\$2);
 11. In the case of an estate, the allowable tax credit shall be twenty dollars (\$20); and
 12. An additional twenty dollars (\$20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.
- (b) 1. For taxable years beginning on or after January 1, 2014, the following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) of this section to arrive at the annual tax:
- a. Ten dollars (\$10) for an ~~unmarried~~ individual **who is not in a matrimonial relationship**;
 - b. Ten dollars (\$10) for ~~an~~ ~~a~~ ~~married~~ individual **who is in a matrimonial relationship** filing a separate return and an additional ten dollars (\$10) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or twenty dollars (\$20) for ~~married~~ persons **who are in a matrimonial relationship** filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of ~~matrimonial~~ ~~marital~~ status for the purpose of this section shall be made **as provided in Section 103 of this Act** ~~in the manner prescribed in Section 153 of the Internal Revenue Code~~;

- c. Ten dollars (\$10) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his spouse;
 - d. An additional forty dollars (\$40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;
 - e. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
 - f. An additional forty dollars (\$40) credit if the taxpayer is blind at the close of the taxable year;
 - g. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
 - h. In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars (\$2);
 - i. In the case of an estate, the allowable tax credit shall be ten dollars (\$10); and
 - j. An additional twenty dollars (\$20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.
2. In the case of nonresidents, the tax credits allowable under this subsection shall be the portion of the credits that are represented by the

ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in paragraphs (f) and (g) of that subsection, to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:

- a. The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or
 - b. Prorating the taxpayer's tax credit(s) plus the tax credits for the taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in paragraphs (f) and (g) of that subsection, to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse.
3. In the case of an individual who becomes a resident of Kentucky during the taxable year, the tax credits allowable under this subsection shall be the portion of the credits represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in paragraphs (f) and (g) of that subsection, to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code.
- (4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as herein provided, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation, or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual

shall be taxable only upon the amount of income received by the individual from labor performed, business done, or from other activities in this state, from tangible property located in this state, and from intangible property which has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. The remainder of the income received by such nonresident shall be deemed nontaxable by this state.

- (5) Subject to the provisions of KRS 141.081, any individual may elect to pay the annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.
- (6) An individual who becomes a resident of Kentucky during the taxable year is subject to taxation as prescribed in subsection (4) of this section prior to establishing residence and as prescribed in subsection (1) of this section following the establishment of residence.
- (7) An individual who becomes a nonresident of Kentucky during the taxable year is subject to taxation, as prescribed in subsection (1) of this section, during that portion of the taxable year that the individual is a resident and, as prescribed in subsection (4) of this section, during that portion of the taxable year when the individual is a nonresident.

➔Section 105. KRS 141.066 is amended to read as follows:

- (1) As used in this section:
 - (a) "Federal poverty level" means the Health and Human Services poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. sec. 9902(2) and available on June 30 of the taxable year;
 - (b) "Qualifying dependent" means a qualifying child as defined in the Internal Revenue Code, Section 152(c), and includes a child who lives in the household but cannot be claimed as a dependent if the provisions of Internal

Revenue Code Section 152(e)(2) and 152(e)(4) apply;

- (c) "Qualifying individual" means an individual whose filing status is single or married filing separately if during the taxable year the individual's spouse is not a member of the household;
 - (d) "Qualifying ~~married~~ couple *in a matrimonial relationship*" means a husband and wife living together who file a joint return or separately on a combined return. *Matrimonial*~~["Marital"] status[""] shall *be determined in accordance with Section 103 of this Act* ~~have the same meaning as defined in Section 7703 of the Internal Revenue Code~~; and~~
 - (e) "Threshold amount" means:
 - 1. For a qualifying individual with no qualifying dependent children, the federal poverty level established for a family unit size of one (1):
 - 2. For a qualifying individual with one (1) qualifying dependent child or a qualifying ~~married~~ couple *in a matrimonial relationship* with no qualifying dependent children, the federal poverty level established for a family unit size of two (2);
 - 3. For a qualifying individual with two (2) qualifying dependent children or a qualifying ~~married~~ couple *in a matrimonial relationship* with one (1) qualifying dependent child, the federal poverty level established for a family unit size of three (3);
 - 4. For a qualifying individual with (3) or more qualifying dependent children or a qualifying ~~married~~ couple *in a matrimonial relationship* with two (2) or more qualifying dependent children, the federal poverty level established for a family unit size of four (4).
- (2) (a) For taxable years beginning before January 1, 2005, a resident individual whose adjusted gross income does not exceed the amounts set out in paragraph (c) of this subsection shall be eligible for a nonrefundable "low

income" tax credit. The credit shall be applied against the taxpayer's tax liability calculated under KRS 141.020, and shall be taken in the order established by KRS 141.0205.

- (b) For a husband and wife filing jointly, the "low income" tax credit shall be computed on the basis of their joint adjusted gross income and shall be applied against their joint tax liability. For a husband and wife living together, whether filing separate returns or filing separately on a combined return, the "low income" credit shall be computed on the basis of their combined adjusted gross income, except that a separately computed gross income of less than zero shall be treated as zero, and shall be applied against their combined tax liability.
- (c) The "low income" tax credit shall be computed as follows:

AMOUNT OF ADJUSTED GROSS INCOME	PERCENT OF TAX LIABILITY ALLOWED AS LOW INCOME TAX CREDIT
not over \$5,000	100%
over \$ 5,000 but not over \$10,000	50%
over \$10,000 but not over \$15,000	25%
over \$15,000 but not over \$20,000	15%
over \$20,000 but not over \$25,000	5%
over \$25,000	-0-

- (3) (a) For taxable years beginning after December 31, 2004, qualifying taxpayers whose modified gross income is below one hundred thirty-three percent (133%) of the threshold amount shall be entitled to a nonrefundable family size tax credit. The family size tax credit shall be applied against the taxpayer's tax liability calculated under KRS 141.020. The family size tax credit shall not reduce the taxpayer's tax liability below zero.

- (b) For qualifying taxpayers whose modified gross income is equal to or below one hundred percent (100%) of the threshold amount, the family size tax credit shall be equal to the taxpayer's tax liability.
- (c) For qualifying taxpayers whose modified gross income exceeds the threshold amount but is below one hundred thirty-three percent (133%) of the threshold amount, the family size tax credit shall be equal to the amount of the taxpayer's individual income tax liability multiplied by a percentage as follows:
1. If modified gross income is above one hundred percent (100%) but less than or equal to one hundred four percent (104%) of the threshold amount, the credit percentage shall be ninety percent (90%);
 2. If modified gross income is above one hundred four percent (104%) but less than or equal to one hundred eight percent (108%) of the threshold amount, the credit percentage shall be eighty percent (80%);
 3. If modified gross income is above one hundred eight percent (108%) but less than or equal to one hundred twelve percent (112%) of the threshold amount, the credit percentage shall be seventy percent (70%);
 4. If modified gross income is above one hundred twelve percent (112%) but less than or equal to one hundred sixteen percent (116%) of the threshold amount, the credit percentage shall be sixty percent (60%);
 5. If modified gross income is above one hundred sixteen percent (116%) but less than or equal to one hundred twenty percent (120%) of the threshold amount, the credit percentage shall be fifty percent (50%);
 6. If modified gross income is above one hundred twenty percent (120%) but less than or equal to one hundred twenty-four percent (124%) of the threshold amount, the credit percentage shall be forty percent (40%);
 7. If modified gross income is above one hundred twenty-four percent

- (124%) but less than or equal to one hundred twenty-seven percent (127%) of the threshold amount, the credit percentage shall be thirty percent (30%);
8. If modified gross income is above one hundred twenty-seven percent (127%) but less than or equal to one hundred thirty percent (130%) of the threshold amount, the credit percentage shall be twenty percent (20%);
 9. If modified gross income is above one hundred thirty percent (130%) but less than or equal to one hundred thirty-three percent (133%) of the threshold amount, the credit percentage shall be ten percent (10%);
 10. If modified gross income is above one hundred thirty-three percent (133%) of the threshold amount, the credit percentage shall be zero.
- (4) For a qualifying ~~married~~ couple ***in a matrimonial relationship*** filing jointly, the family size tax credit shall be computed on the basis of their joint modified gross income and shall be applied against their joint tax liability. For a qualifying ~~married~~ couple ***in a matrimonial relationship*** living together, whether filing separate returns or filing separately on a combined return, the family size tax credit shall be computed on the basis of their combined modified gross income, except that a separately computed modified gross income of less than zero shall be treated as zero, and shall be applied against their combined tax liability.
- ➔Section 106. KRS 141.069 is amended to read as follows:
- (1) As used in this section, "eligible Kentucky education institution" means an institution as defined by Section 25A of the Internal Revenue Code that is located within the Commonwealth of Kentucky.
 - (2) For taxable years beginning after December 31, 2004, an individual may deduct from the tax computed under KRS 141.020 a nonrefundable credit for qualified tuition and related expenses required for enrollment or attendance of the taxpayer,

taxpayer's spouse or any dependent at an eligible Kentucky educational institution. The credit shall be twenty-five percent (25%) of the federal credit allowable under Section 25A of the Internal Revenue Code.

- (3) The credit allowed in subsection (2) of this section shall not be allowed for expenses for graduate level course study.
- (4) If the taxpayer is ~~an~~~~[a married]~~ individual **who is in a matrimonial relationship as provided in Section 103 of this Act**~~[within the meaning of Section 7703 of the Internal Revenue Code]~~, the credit shall apply only if the taxpayer and the taxpayer's spouse file a joint return or file separately on a combined form. The credit shall not be allowed if the taxpayer and the taxpayer's spouse file separate returns.
- (5) Any unused credit may be carried forward five (5) years.

➔Section 107. KRS 141.081 is amended to read as follows:

- (1) An individual, at his election, may deduct from his adjusted gross income a standard deduction of:
 - (a) Six hundred and fifty dollars (\$650) for taxable years beginning before December 31, 1996;
 - (b) Nine hundred dollars (\$900) for taxable years beginning after December 31, 1996, but before December 31, 1997;
 - (c) One thousand two hundred dollars (\$1,200) for taxable years beginning after December 31, 1997, but before December 31, 1998;
 - (d) One thousand five hundred dollars (\$1,500) for taxable years beginning after December 31, 1998, but before December 31, 1999;
 - (e) One thousand seven hundred dollars (\$1,700) for taxable years beginning after December 31, 1999, but before December 31, 2000; and
 - (f) The amount calculated under subsection (2) of this section for taxable years beginning after December 31, 2000.
- (2) (a) For taxable years beginning after December 31, 2000, and each taxable year

thereafter, the standard deduction for the current taxable year shall be equal to the standard deduction for the prior taxable year multiplied by the greater of:

1. The average of the monthly CPI-U figures for the twelve (12) consecutive months ending in and including the July six (6) months prior to the January beginning the current tax year, divided by the average of the monthly CPI-U figures for the twelve (12) months ending in and including the July eighteen (18) months prior to the January beginning the current tax year; or
 2. One (1).
- (b) As used in this subsection, a tax year shall be the twelve (12) month period beginning in January and ending in December.
- (c) As used in this subsection, "CPI-U" means the nonseasonally adjusted United States city average of the Consumer Price Index for all urban consumers for all items, as released by the federal Bureau of Labor Statistics.
- (3) The standard deduction provided for in this section shall be in lieu of all deductions and shall not be allowed in the case of a taxable year of less than twelve (12) months on account of a change in the accounting period or in the case of a fiduciary.
- (4) In the case of a husband and wife living together, the standard deduction provided for in this section shall not be allowed to either if the net income of one (1) of the spouses is determined without regard to the standard deduction. The determination of matrimonial~~marital~~ status shall be determined in accordance with~~made in the manner prescribed in~~ Section 103 of this Act~~153 of the Internal Revenue Code~~.

➔Section 108. KRS 141.180 is amended to read as follows:

- (1) For taxable years beginning before January 1, 2005:
- (a) Every individual, except as otherwise provided in this subsection, having for the taxable year an adjusted gross income which exceeds five thousand dollars (\$5,000), if single, or if in a matrimonial relationship~~married~~ and not living

with husband or wife and every ~~married~~ individual *in a matrimonial relationship and* living with husband or wife whose adjusted gross income combined with the adjusted gross income of his or her spouse exceeds five thousand dollars (\$5,000) shall make to the department a return stating specifically the items which he claims as deductions and tax credits allowed by this chapter.

- (b) Any individual who is blind or who has attained the age of sixty-five (65) before the close of the taxable year shall be required to make a return only if the taxpayer has for the taxable year an adjusted gross income which exceeds five thousand dollars (\$5,000). Every ~~married~~ individual *in a matrimonial relationship and* living with husband or wife shall, if both spouses have attained the age of sixty-five (65), be required to make a return if the combined adjusted gross income of both spouses exceeds five thousand four hundred dollars (\$5,400). If the individual is unable to make his or her own return, the return shall be made by a duly authorized agent.
 - (c) Any individual, who is both sixty-five (65) or over and blind before the close of the taxable year, shall make a return if the taxpayer has for the taxable year an adjusted gross income which exceeds five thousand dollars (\$5,000).
 - (d) Notwithstanding any other provision of this subsection, an individual, having for the taxable year gross income from self-employment of five thousand dollars (\$5,000) or more, shall make a return.
 - (e) Any nonresident individual with gross income from Kentucky sources and a total gross income of five thousand dollars (\$5,000) or over shall make a return.
- (2) For taxable years beginning after December 31, 2004:
- (a) Except as otherwise provided in this subsection, every individual having for the taxable year a modified gross income exceeding the threshold amount

determined under KRS 141.066, and every ~~married~~ couple *in a matrimonial relationship and* living together with a combined modified gross income exceeding the threshold amount determined under KRS 141.066, shall file a return with the department stating specifically the items claimed as deductions and tax credits allowed by this chapter. If the individual is unable to file a return, the return shall be made by a duly authorized agent.

- (b) Notwithstanding any other provision of this subsection, an individual having, for the taxable year, gross income from self-employment exceeding the threshold amount determined under KRS 141.066 shall file a return.
 - (c) Any nonresident individual with gross income from Kentucky sources and a total gross income exceeding the threshold amount determined under KRS 141.066 shall file a return.
- (3) A husband and wife not living together shall make separate returns. A husband and wife living together may make a joint return, or may make separate returns. However, if separate returns are made, neither spouse shall report income nor claim deductions properly attributable to the other.
- (4) Notwithstanding any other provisions of KRS Chapters 131 and 141, a husband or a wife who is jointly and severally liable for taxes levied under KRS 141.020, applicable penalties, and interest shall be relieved of liability for tax, interest, penalties, and other amounts if:
- (a) The spouse has been relieved of liability for federal income tax, interest, penalties, and other amounts for the same taxable year by the Internal Revenue Service under Section 6015 of the Internal Revenue Code, to be effective as of the date that the Internal Revenue Service approved the relief; or
 - (b) It is shown that the spouse would have qualified for relief under the provisions of Section 6015 of the Internal Revenue Code for the same taxable year if there had been a federal income tax liability, to be effective as of the date that

the department approved the relief.

- (5) Notwithstanding KRS 134.580, any relief granted pursuant to paragraphs (a) and (b) of subsection (4) of this section shall not result in a tax overpayment to the spouse requesting relief for payments made before the relief was approved.
- (6) Each individual return shall be verified by a declaration that it is made under the penalties of perjury.

➔Section 109. KRS 141.325 is amended to read as follows:

- (1) An employee receiving wages shall on any day be entitled to the following withholding exemptions:
 - (a) One (1) exemption for himself;
 - (b) One (1) exemption for each dependent for whom he would be entitled to a tax credit under the provisions of KRS 141.020(3)(a)3. or (b)1.c.;
 - (c) If the employee has entered into matrimony~~[is married]~~, the exemption to which his spouse is entitled, or would be entitled if such spouse were an employee, under subparagraph (a) of this subsection, but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption;
 - (d) Such other withholding exemptions as the department may prescribe by regulation.
- (2) Every employee shall, on or before July 1, 1954, or before the date of commencement of employment, whichever is later, furnish his employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which in no event shall exceed the number to which he is entitled.
- (3) Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished;

provided, that certificates furnished before July 1, 1954, shall be considered as furnished on that date.

- (4) A withholding exemption certificate which takes effect under this section shall continue in effect with respect to the employer until another such certificate takes effect under this section. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1 or July 1, which occurs at least thirty (30) days after the date on which such new certificate is furnished.
- (5) If, on any day during the calendar year, the number of withholding exemptions to which the employee may reasonably be expected to be entitled at the beginning of his next taxable year is different from the number to which the employee is entitled on such day, the employee shall in such cases and at such time as the department may prescribe, furnish the employer with a withholding exemption certificate relating to the number of exemptions which he claims with respect to such next taxable year, which shall in no event exceed the number to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this subsection shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.
- (6) If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall, within ten (10) days thereafter, furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day. If, on any day during the calendar year, the number of withholding exemptions to which the employee is

entitled is greater than the number of withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day.

- (7) Withholding exemption certificates shall be in such form and contain such information as the department may by regulations prescribe.

➔Section 110. KRS 141.388 is amended to read as follows:

- (1) As used in this section:

- (a) "Approved time" means a period of time beginning on July 26, 2009, and ending on December 31, 2010;
- (b) "New home tax credit cap" means a maximum of fifteen million dollars (\$15,000,000) allocated to qualified buyers on a first-come, first-served basis;
- (c) "Purchase" means a point within the approved time when escrow closes between the qualified buyer and the seller of the qualified principal residence;
- (d) "Qualified buyer" means a resident who purchases a qualified principal residence; and
- (e) "Qualified principal residence" means a single-family dwelling which is:
 - 1. Either detached or attached;
 - 2. Certified by the seller as having never been occupied; and
 - 3. Purchased to be the principal residence of the qualified buyer for a minimum of two (2) years.

- (2) (a) There is hereby created a one (1) time, nonrefundable new home tax credit against the tax imposed by KRS 141.020, with the ordering of credits as provided in KRS 141.0205.
- (b) The credit shall apply to the tax liability of a qualified buyer who purchases a qualified principal residence within the approved time.
- (c) Within seven (7) calendar days after the purchase of a qualified principal

residence, the qualified buyer shall submit via fax a completed application for the new home tax credit on forms provided by the department, except that any qualified buyer who purchased a qualified principal residence after November 6, 2009, but before June 4, 2010, shall have thirty (30) calendar days from June 4, 2010, to submit via fax a completed application.

- (d) 1. The new home tax credit allowable to the qualified buyer shall be equal to five thousand dollars (\$5,000), unless the new home tax credit cap has been reached.
- 2. If the new home tax credit cap has been reached, the qualified buyer shall not receive a credit.
- (e) The new home tax credit is not refundable and any unused amount in the taxable year of the purchase cannot be carried forward or back to another taxable year.
- (f) Any credit that reduced the tax imposed by KRS 141.020 shall be repaid in total if the qualified buyer does not occupy the new home for at least two (2) years immediately following the purchase.
- (3) To administer the new home tax credit and new home tax credit cap, the department shall:
 - (a) Create the application required to be filed by a qualified buyer;
 - (b) Promulgate administrative regulations to administer the new home tax credit, including but not limited to:
 - 1. The process of recapture of the credit if the qualified buyer does not maintain the new home as his or her principal residence for two (2) years; and
 - 2. How to allocate the new home tax credit between ~~unmarried~~ co-purchasers who are not in a matrimonial relationship or between ~~married~~ individuals who are in a matrimonial relationship who file

separate returns;

- (c) Create a Web site containing the amount of the total credit allocated to date, the date the last processed application was received, and the remaining credit available to qualified buyers;
 - (d) Establish a dedicated telephone line to receive faxed applications;
 - (e) Allow the date and time stamp from the faxed application as the order within which the application was received; and
 - (f) Notify the qualified buyer of the allowable credit available to the qualified buyer by a credit allocation letter, which shall be submitted by the qualified buyer with his or her return.
- (4) The application for the new home tax credit shall be void if:
- (a) The home has been previously occupied;
 - (b) The application is not received within seven (7) calendar days from the purchase;
 - (c) The application is not received within thirty (30) calendar days from June 4, 2010, for purchases of a qualified principal residence after November 6, 2009, but before June 4, 2010; or
 - (d) The application is received after the new home tax credit cap has been reached.

➔Section 111. KRS 142.010 is amended to read as follows:

- (1) The following taxes shall be paid:
- (a) A tax of four dollars and fifty cents (\$4.50) on each matrimony~~[marriage]~~ license;
 - (b) A tax of four dollars (\$4) on each power of attorney to convey real or personal property;
 - (c) A tax of four dollars (\$4) on each mortgage, financing statement, or security agreement and on each notation of a security interest on a certificate of title

under KRS 186A.190;

- (d) A tax of four dollars (\$4) on each conveyance of real property; and
 - (e) A tax of four dollars (\$4) on each lien or conveyance of coal, oil, gas, or other mineral right or privilege.
- (2) The tax imposed by this section shall be collected by each county clerk as a prerequisite to the issuance of a matrimony~~[marriage]~~ license or the original filing of an instrument subject to the tax. Subsequent assignment of the original instrument shall not be cause for additional taxation under this section. This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.
- (3) Taxes imposed under this section shall be reported and paid to the Department of Revenue by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed or matrimony~~[marriage]~~ licenses issued. Each remittance shall be accompanied by a summary report on a form prescribed by the department.
- (4) Any county clerk who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180. In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.
- (5) One dollar (\$1) of the amount collected under each paragraph of subsection (1) of this section shall be placed in an agency fund in the Department for Libraries and Archives to be used exclusively for the purpose of preserving and retaining public records by continuing the local records grant program active in the Department for Libraries and Archives. The budgeted amount of funds allocated to the grant program in the fiscal year 2005-2006 departmental budget shall not be reduced in future years, and shall be increased annually by this additional revenue to be used exclusively for the grants program.

➔Section 112. KRS 154A.110 is amended to read as follows:

- (1) Proceeds of lottery prizes shall be subject to Kentucky state income tax. Any attachments, garnishments, or executions authorized and issued pursuant to statute shall also be withheld if served upon the process agent of the corporation. This section shall not apply to a retailer.
- (2) The board shall adopt rules to establish a system of verifying the validity of tickets claimed to win prizes and to effect payment of such prizes, except that:
 - (a) No prize, nor any portion of a prize, nor any right of any person to a prize awarded shall be assignable, except as provided in subsection (6) of this section. Any prize, or portion thereof, remaining unpaid at the death of a prize winner shall be paid to the estate of such deceased prize winner or to the trustee under a revocable living trust established by the deceased prize winner as settlor, provided that a copy of such a trust has been filed with the corporation along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the corporation prior to the settlor's death. Following such a settlor's death and prior to any payment to such a successor trustee, the corporation shall obtain from the trustee and each trust beneficiary a written agreement to indemnify and hold the corporation harmless with respect to any claims that may be asserted against the corporation arising from payment to or through the trust. Notwithstanding any other provisions of this section, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled.
 - (b) No ticket shall knowingly be sold to any person under the age of eighteen (18), but this section does not prohibit the purchase of a ticket by a person eighteen (18) years of age or older for the purpose of making a gift to any person of any age. In such case, the corporation shall direct payment to an adult member of the person's family or the legal guardian of the person on

behalf of such person. The person named as custodian shall have the same powers and duties as prescribed for a custodian pursuant to the Uniform Transfers to Minors Act.

- (c) No prize shall be paid arising from claimed tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the corporation within applicable deadlines, lacking in captions that conform and agree with the play symbols as appropriate to the lottery game involved, or not in compliance with such additional specific rules and public or confidential validation and security tests of the corporation appropriate to the particular lottery game involved.
- (d) No particular prize in any lottery game shall be paid more than once, and in the event of a binding determination that more than one claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize.
- (e) A holder of a winning cash ticket from a Kentucky lottery game shall claim a prize within three hundred sixty-five (365) days (for a ticket issued before January 1, 1995), and within one hundred eighty (180) days (for a ticket issued on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the drawing in which the prize was won. In any Kentucky lottery game in which the player may determine instantly if he has won or lost, he shall claim a prize within three hundred sixty-five (365) days (for lottery games commenced or tickets printed or reprinted before January 1, 1995), and within one hundred eighty (180) days (for lottery games commenced or tickets printed or reprinted on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the end of the lottery game as announced by the corporation. However, a holder of a pull-tab lottery ticket shall claim a prize within the time period and in the

manner printed on the ticket. If a valid claim is not made for a prize within the applicable period, the prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.

- (f) No prize shall be paid upon a ticket purchased or sold in violation of this chapter. Any such prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.
- (3) Any unclaimed prize money may be retained by the corporation and added to the pool from which future prizes are to be awarded or used for special prize promotions, or may be appropriated by the General Assembly directly from the corporation for any public purpose. For fiscal years 2000-2001 and 2001-2002, any unclaimed prize money in excess of six million dollars (\$6,000,000) shall be transferred to the affordable housing trust fund established by KRS 198A.710.
- (4) The corporation is discharged of all liability upon payment of a prize.
- (5) No ticket shall be purchased by and no prize shall be paid to any of the following persons:
 - (a) Any member of the board of directors, officers, or employees of the corporation;
 - (b) Any vendors or related entities, or any member of the board of directors, officers, employees of, partners in, or owners of any vendors or related entities to the vendors; or
 - (c) Any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any such person.
- (6) The right of any person to receive payments due under a prize that is paid in installments over time by the corporation, excluding prizes payable for the winner's life, may be voluntarily assigned, in whole or in part, if the assignment is made to a person or entity designated pursuant to an order of the Circuit Court located in the judicial circuit where the headquarters of the corporation is located. The Circuit

Court shall issue an order approving a voluntary assignment, specifying the exact dollar amount of each prize payment or payments assigned, or any portion thereof, the dates of the payments being assigned, the name of the assignor as it appears on the lottery claim form or the full legal name of the assignor if different than the name as it appears on the lottery claim form, and the full legal name of the assignee to whom the assigned payments will be made, and directing the corporation to make the specified payments to the assignee, if all of the following conditions have been met:

- (a) The assignment is in writing, executed by the assignor either before or after July 12, 2006, and by its terms, subject to the laws of this Commonwealth;
- (b) The assignor provides a sworn affidavit attesting that the assignor:
 1. Is of sound mind, in full command of his or her faculties, and is not acting under duress;
 2. Has had the opportunity to receive independent legal, financial, and tax advice concerning the effects of the assignment;
 3. Understands that he or she will not receive the prize payments, or portions thereof, for the years assigned;
 4. Understands and agrees that with regard to the assigned payments, the Commonwealth, the corporation, and its respective officials and employees will have no further liability or responsibility to make the assigned payments to the assignor;
 5. Has been provided with a one (1) page written disclosure statement in bold type, fourteen (14) point font or larger, setting forth:
 - a. The payments being assigned, by amounts and payment dates;
 - b. The purchase price being paid; and
 - c. The amount, if any, of any origination or closing fees that will be charged to the lottery winner; and

6. Has disclosed the existence or nonexistence of a current spouse; and, if the assignor has entered into matrimony~~married~~, unless the court finds the assignor may make the assignment without the spouse's consent, the assignor has submitted to the court a signed and notarized statement wherein the spouse consents to the assignment.
- (7) Written notice of any petition seeking court approval of an assignment under subsection (6) of this section and of a court hearing, if any, concerning the proposed assignment shall be delivered by certified mail, return receipt requested, to the corporation's registered agent at least fifteen (15) days prior to entry of the court order or a court hearing, if any. The corporation is not a necessary or indispensable party and is not required to appear in or be named as a party to any action seeking court approval of a voluntary assignment, but may intervene as of right in any such proceeding.
- (8) A voluntary assignment under subsection (6) of this section shall not include or cover payments or portions of payments that are, at the time of entry of the court order, subject to offset or withholding due to:
 - (a) A defaulted or delinquent child support obligation;
 - (b) A debt owed to a state agency; or
 - (c) Any attachments, garnishments, or executions authorized and issued pursuant to statute and served upon the process agent of the corporation as set forth in subsection (1) of this section;unless appropriate provision is made in the court order to satisfy the obligation or obligations giving rise to the offset or withholding at the time of closing of the assignment transaction. Each court order shall provide that any delinquent child support obligation owed by the assignor as of the date of the court order and any debts owed to a state agency by the assignor as of the date of the court order shall be offset by the corporation first against remaining payments or portions thereof then

due the assignor and then against payments due the assignee each year until paid in full.

- (9) A court order approving a voluntary assignment under subsection (6) of this section, together with any other order issued in connection with any one (1) prize drawn, shall not require the corporation to divide any single prize payment among more than three (3) different persons or entities.
- (10) The Commonwealth, the corporation, and their respective officials and employees shall be discharged of all further liability upon payment of a prize pursuant to court order issued under subsection (6) of this section. It shall be the responsibility of the assignor or the assignee to provide the corporation information necessary for the corporation to identify the parties to any assignment under subsection (6) of this section and to make the payments assigned.
- (11) The Kentucky Lottery Corporation may establish a reasonable fee, not to exceed one thousand dollars (\$1,000), to defray any administrative expenses associated with processing each assignment made pursuant to subsection (6) of this section. The fee amount shall reflect the direct and indirect costs associated with processing the assignments. A court order approving an assignment under subsection (6) of this section shall direct the assignee to pay the fee to the corporation no later than ten (10) days after entry of the order.
- (12) A certified copy of a court order approving a voluntary assignment under subsection (6) of this section shall be delivered by certified mail, return receipt requested, to the corporation's registered agent at least thirty (30) days prior to the date upon which the first assigned payment is to be paid to the assignee. Within ten (10) days of receipt of the court order, the corporation shall acknowledge in writing to both the assignor and the assignee its receipt of the court order and that the corporation shall thereafter make the prize payments in accordance with the court order.
- (13) Subsection (6) of this section supersedes and prevails over any provision in the

Uniform Commercial Code, including KRS 355.9-406.

(14) The right to assign prize payments pursuant to subsection (6) of this section shall be suspended upon:

- (a) The publication by the United States Internal Revenue Service, hereinafter referred to in this subsection as the "Service," of a revenue ruling or other public ruling of the Service, which rules that, based upon the right of assignment provided in subsection (6) of this section, Kentucky lottery prizewinners who do not assign any prize payments would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid; or
- (b) The issuance by a court of competent jurisdiction of a published decision holding that, based upon the right of assignment provided in subsection (6) of this section, a lottery prizewinner who does not assign any prize payments under that subsection would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid.

➔Section 113. KRS 159.010 is amended to read as follows:

- (1) (a) Except as provided in KRS 159.030 and paragraphs (b) and (c) of this subsection, each parent, guardian, or other person residing in the state and having in custody or charge any child who has entered the primary school program or any child between the ages of six (6) and sixteen (16) shall send the child to a regular public day school for the full term that the public school of the district in which the child resides is in session or to the public school that the board of education of the district makes provision for the child to attend. A child's age is between six (6) and sixteen (16) when the child has reached his or her sixth birthday and has not passed his or her sixteenth birthday.

- (b) 1. Effective with the 2015-2016 school year, a local board of education may, upon the recommendation of the superintendent, adopt a district-wide policy to require, except as provided in KRS 159.030, each parent, guardian, or other person residing in the district and having in custody or charge any child who has entered the primary school program or any child between the ages six (6) and eighteen (18) to send the child to a regular public school for the full term of the district in which the child resides or to the public school that the district makes provisions for the child to attend.
2. All children residing in the district, except as provided in KRS 159.030, shall be subject to the local board's compulsory age policy.
3. A district shall impose the same compulsory age requirement for all students residing in the district, even if the district has entered a contract to permit some students to attend school in another public school district that has not adopted a policy under this paragraph.
4. A local board of education adopting a policy under this paragraph shall certify to the Kentucky Department of Education that the district has, or will have, programs in place to meet the needs of potential dropouts. Implementation of the policy shall be contingent on notice of approval by the department.
- (c) When fifty-five percent (55%) of all local school districts have adopted a policy in accordance with paragraph (b) of this subsection, all local school districts shall be required to adopt the compulsory attendance requirements under paragraph (b) of this subsection. This requirement shall be effective with the school year that occurs four (4) years after the fifty-five percent (55%) threshold is met.
- (2) An ~~unmarried~~ child between the ages of sixteen (16) and eighteen (18) ***who has***

not entered into matrimony, who resides in a district that has not adopted a policy under subsection (1)(b) of this section, *and* who wishes to terminate his or her public or nonpublic education prior to graduating from high school shall do so only after a conference with the principal or his or her designee, and the principal shall request a conference with the parent, guardian, or other custodian. Written notification of withdrawal must be received from his parent, guardian, or other person residing in the state and having custody or charge of him. The child and the parent, guardian, or other custodian shall be required to attend a one (1) hour counseling session with a school counselor on potential problems of nongraduates.

- (3) A child's age is between sixteen (16) and eighteen (18) when the child has reached his sixteenth birthday and has not passed his eighteenth birthday. Written permission for withdrawal shall not be required after the child's eighteenth birthday. Every child who is a resident in this state is subject to the laws relating to compulsory attendance, including the compulsory attendance requirements of a school district under subsection (1)(b) of this section. Neither the child nor the person in charge of the child shall be excused from the operation of those laws or the penalties under them on the ground that the child's residence is seasonable or that his or her parent is a resident of another state.
- (4) Each school district shall contact each student between the ages of sixteen (16) and eighteen (18) who has voluntarily withdrawn from school under subsection (2) of this section within three (3) months of the date of withdrawal to encourage the student to reenroll in a regular program, alternative program, or GED preparation program. In the event the student does not reenroll at that time, the school district shall make at least one (1) more attempt to reenroll the student before the beginning of the school year following the school year in which the student terminated his or her enrollment.

➔Section 114. KRS 160.380 is amended to read as follows:

- (1) As used in this section:
 - (a) "Alternative education program" means a program that exists to meet the needs of students that cannot be addressed in a traditional classroom setting but through the assignment of students to alternative classrooms, centers, or campuses that are designed to remediate academic performance, improve behavior, or provide an enhanced learning experience. Alternative education programs do not include career or technical centers or departments;
 - (b) "Contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school-affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor;
 - (c) "Relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law; and
 - (d) "Vacancy" means any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.
- (2) Except as provided in KRS 160.346:
 - (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All

employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself or herself to another position within the school district;

- (b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing;
- (c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days;
- (d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district;
- (e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or

certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to entering into matrimony with~~marrying~~ a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has at least eight (8) years of service in school systems may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection;

- (f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection; and
- (g) 1. No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.
2. No spouse of a principal shall be employed in the principal's school, except:
- a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in

- the district; or
- b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.
 3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.
 4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.
- (3) No superintendent shall assign a certified or classified staff person to an alternative education program as part of any disciplinary action taken pursuant to KRS 161.011 or 161.790 as part of a corrective action plan established pursuant to the local district evaluation plan.
 - (4) No superintendent shall employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor.
 - (5)
 - (a) A superintendent shall require a national and state criminal background check on all new certified hires in the school district and student teachers assigned within the district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check for the previous employment.
 - (b) The superintendent shall require that each new certified hire and student teacher, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation.
 - (c) All fingerprints requested under this section shall be on an applicant

fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Department of Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.

- (d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.
- (6) (a) A superintendent shall require a state criminal background check on all classified initial hires.
- (b) The superintendent shall require that each classified initial hire submit to a state criminal history background check by the Department of Kentucky State Police. If an applicant has been a resident of Kentucky twelve (12) months or less, the superintendent may require a national criminal history background check as a condition of employment.
- (c) Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested under the provisions of paragraph (b) of this subsection, shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (7) The superintendent may require a contractor, volunteer, or visitor to submit to a national and state criminal history background check by the Department of

Kentucky State Police and the Federal Bureau of Investigation. Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested, shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

- (8) (a) If a school term has begun and a certified or classified position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.
- (b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.
- (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.
- (d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.
- (9) (a) Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS

TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT. UNDER CERTAIN CIRCUMSTANCES, A NATIONAL CRIMINAL HISTORY BACKGROUND CHECK MAY BE REQUIRED AS A CONDITION OF EMPLOYMENT."

- (b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."
- (c) Each application form for a district position shall require the applicant to:
 - 1. Identify the states in which he or she has maintained residency, including the dates of residency; and
 - 2. Provide picture identification.
- (10) The provisions of subsections (5), (6), (7), (8) and (9) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.
- (11) A school-based decision-making council parent member, as defined under KRS 160.345, shall submit to a state and national fingerprint-supported criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation. The results of the state criminal history background check and the results of the national criminal history background check, if requested, shall be sent to the district superintendent. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search. A parent member may serve prior to the receipt of the criminal history background check report but shall be removed from the council on receipt by the school district of a report documenting a record of a sex crime or criminal offense against a victim who is a minor as defined in

KRS 17.500 or as a violent offender as defined in KRS 17.165, and no further procedures shall be required.

- (12) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, when an employee of the school district is charged with any offense which is classified as a felony, the superintendent may transfer the employee to a second position until such time as the employee is found not guilty, the charges are dismissed, the employee is terminated, or the superintendent determines that further personnel action is not required. The employee shall continue to be paid at the same rate of pay he or she received prior to the transfer. If an employee is charged with an offense outside of the Commonwealth, this provision may also be applied if the charge would have been treated as a felony if committed within the Commonwealth. Transfers shall be made to prevent disruption of the educational process and district operations and in the interest of students and staff and shall not be construed as evidence of misconduct.

➔Section 115. KRS 161.480 is amended to read as follows:

Each person, upon becoming a member of the retirement system, shall file a detailed statement as required by the board of trustees and shall designate a primary beneficiary or two (2) or more cobeneficiaries to receive any benefits accruing from the death of the member. A contingent beneficiary may be designated in addition to the primary beneficiary or cobeneficiaries. The member may name more than one (1) contingent beneficiary. Any beneficiary designation made by the member, including the estate should the estate become the beneficiary by default, shall remain in effect until changed by the member on forms prescribed by the Kentucky Teachers' Retirement System, except in the event of subsequent matrimony~~[marriage]~~ or divorce. Subsequent matrimony~~[marriage]~~ by the member shall void the primary beneficiary and any cobeneficiary designation, even that of a trust, and the spouse of the member at death shall be considered as the primary beneficiary, unless the member subsequent to matrimony~~[marriage]~~ designates another

beneficiary. A final divorce decree shall terminate an ex-spouse's status as either primary beneficiary, cobeneficiary, or contingent beneficiary, unless subsequent to divorce the member redesignates the former spouse as primary beneficiary, cobeneficiary, or contingent beneficiary. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of a member's contributions to the retirement system as provided under KRS 161.470(7). A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust. In the event that a member fails to designate a beneficiary, or all designated beneficiaries predecease the member, the member's estate shall be deemed to be the beneficiary. Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency instructions, on forms prescribed by the retirement system. The provisions of this section shall be retroactive as they relate to election of beneficiaries by members still in active status on the effective date of this section. The provisions of this section shall not apply to any account from which a member is drawing a retirement allowance or to the life insurance benefit available under KRS 161.655.

➔Section 116. KRS 161.520 is amended to read as follows:

Upon the death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

- (1) Where there is a surviving widow or widower who is named as the primary beneficiary of the member's retirement account, the benefit shall be:
 - (a) One hundred eighty dollars (\$180) per month with no restriction on other income;
 - (b) Two hundred forty dollars (\$240) per month when the surviving widow or widower's total income from all sources does not exceed six thousand six

hundred dollars (\$6,600) per year or five hundred fifty dollars (\$550) per month; or

- (c) If the deceased member has a minimum of ten (10) years of service credit with the Teachers' Retirement System, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life, except as provided in subsection (6) of this section. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower of a member who dies after July 1, 1978, shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision;
- (2) (a) Where there are surviving ~~unmarried~~ children **who have not entered into matrimony** under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be two hundred dollars (\$200) per month in the case of one (1) child, three hundred forty dollars (\$340) per month in the case of two (2) children, four hundred dollars (\$400) per month in the case of three (3) children, and four hundred forty dollars (\$440) per month in the case of four (4) or more children. Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (3) of this section.
- (b) Notwithstanding any provision of law to the contrary, the surviving spouse may elect to receive a lump-sum refund of the member's account in lieu of the survivorship benefits payable under this subsection and subsection (1) of this section only if the surviving spouse is designated as the primary beneficiary

and:

1. Is a biological or adoptive parent of all children eligible for a benefit under this subsection and has not had his or her parental rights terminated; or
 2. Has been appointed as legal guardian of all of the children eligible under paragraph (a) of this subsection.
- (c) To elect a lump-sum refund of the member's account under paragraph (b) of this subsection, the surviving spouse who is designated as the primary beneficiary must sign a waiver on forms prescribed by the retirement system of his or her rights and the member's children's rights to the survivorship benefits payable under this subsection and subsection (1) of this section. The surviving spouse shall not waive the survivorship benefits available under this subsection or subsections (1) and (6) of this section if any of the member's children have attained age eighteen (18) or older unless all of those children consent in writing on forms prescribed by the retirement system to waive their survivorship benefits available under this subsection;
- (3) (a) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars (\$200) per month, payable for the life of the child or until the time as the mental or physical condition creating the dependency no longer exists or the child enters into a matrimony~~marries~~. The mental or physical condition of the adult child shall be revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in KRS 161.661(14). Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (2) of this section.

- (b) Notwithstanding any provision of law to the contrary, the surviving spouse shall not elect to receive a lump-sum refund of the member's account in lieu of the survivorship benefits payable under this subsection and subsection (1) of this section unless:
1. The surviving spouse is designated as the primary beneficiary;
 2. The surviving spouse has been appointed by the court as guardian, conservator, or other fiduciary with sufficient general or specific authority to waive the survivorship benefits available under this subsection for any child or children age eighteen (18) or older who have been adjudicated incompetent to make decisions on their own behalf by a court of law; and
 3. Any child or children age eighteen (18) or older who are mentally competent to make decisions on their own behalf as attested to by two (2) physicians' statements consent in writing on forms prescribed by the retirement system to waive their survivorship benefits available under this subsection.
- (c) If eligible to elect a lump-sum refund of the member's account, the surviving spouse shall sign a waiver on forms prescribed by the retirement system of his or her rights and the member's children's rights to the survivorship benefits payable under this subsection and subsections (1) and (2) of this section;
- (4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars (\$200) per month for one (1) parent or two hundred ninety dollars (\$290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member;
- (5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars (\$165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one

- (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home, or other institution at the member's expense for same period;
- (6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19), if a full-time student in high school, or upon matrimony~~[marriage]~~, except that benefits shall continue until the attainment of age twenty-three (23) for a~~[an unmarried]~~ child who has not entered into matrimony and is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent, or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon matrimony~~[marriage]~~, or upon termination of the condition creating the dependency;
- (7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating to eligibility or dependency, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems this action necessary;
- (8) No payment of benefits shall be made unless the board of trustees authorizes the payment. The board shall promulgate administrative regulations for the administration of the provisions in this section and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amount of benefits payable;
- (9) In the event that there are no eligible survivors as defined in subsections (1) to (5) of this section, or in the event that the surviving spouse elects not to receive survivorship benefits on his or her own behalf or on behalf of any of the member's children as permitted under subsections (2) and (3) of this section, the board of trustees shall pay to the estate or the designated beneficiaries of the deceased

member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1) to (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or designated beneficiaries of the deceased member the balance of the accumulated contributions;

- (10) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits; and
- (11) Benefits under subsections (2) and (3) of this section shall apply to a child who is a legally adopted survivor at the time of the death of the member. This provision shall be retroactive to include a child who was born after January 1, 1990, and is a legally adopted survivor of a member whose death occurred prior to July 15, 2008.

➔Section 117. KRS 161.620 is amended to read as follows:

- (1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:
- (a) For retirements effective July 1, 1998, and thereafter, except as otherwise provided by this section, the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary for service performed after July 1, 1983, for all members not employed by a state college or university. The annual retirement allowance for each year of

service performed by members of the Teachers' Retirement System who are members under the provisions of KRS 161.220(4)(b) or (n) shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section;

- (b) For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, and before July 1, 2008, except those persons who become members under KRS 161.220(4)(b) or (n), and who upon retirement have earned less than ten (10) full years of service credit, the retirement allowance shall be two percent (2%) of the member's final average salary for each year of service. For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, and before July 1, 2008, except those persons who become members under KRS 161.220(4)(b) or (n), and who upon retirement have earned at least ten (10) full years of service credit, the annual allowance for each year of service shall be two and one-half percent (2.5%) of the member's final average salary;
- (c) The board of trustees may approve for members who initially retire on or after July 1, 2004, and who become members before July 1, 2008, except those persons who are members under KRS 161.220(4)(b) or (n), a retirement allowance of three percent (3%) of the member's final average salary for each year of service credit earned in excess of thirty (30) years. This three percent (3%) factor shall be in lieu of the two and one-half percent (2.5%) factor provided for in paragraph (b) of this subsection for every year or fraction of a year of service in excess of thirty (30) years. Upon approval of this three percent (3%) retirement factor, the board of trustees may establish conditions of eligibility regarding the type of service credit that will qualify for meeting the requirements of this subsection. This subsection is optional with the board of trustees and shall not be subject to KRS 161.714;

- (d) For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2008, except those persons who become members under KRS 161.220(4)(b) or (n), the retirement allowance shall be:
1. a. One and seven-tenths percent (1.7%) of the member's final average salary for each year of service if the member has earned ten (10) or less years of service at retirement;
 - b. Two percent (2%) of the member's final average salary for each year of service if the member has earned greater than ten (10) but no more than twenty (20) years of service at retirement;
 - c. Two and three-tenths percent (2.3%) of the member's final average salary for each year of service if the member has earned greater than twenty (20) but no more than twenty-six (26) years of service at retirement; or
 - d. Two and one-half percent (2.5%) of the member's final average salary for each year of service if the member has earned greater than twenty-six (26) but no more than thirty (30) years of service at retirement; and
 2. Three percent (3%) of the member's final average salary for each year of service earned in excess of thirty (30) years of service at retirement subject to the same terms and conditions as set forth in paragraph (c) of this subsection;
- (e) For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2008, who are members under KRS 161.220(4)(b) or (n), the retirement allowance shall be:
1. One and one-half percent (1.5%) of the member's final average salary for each year of service if the member has earned ten (10) or less years of service at retirement;

2. One and seven-tenths percent (1.7%) of the member's final average salary for each year of service if the member has earned greater than ten (10) but no more than twenty (20) years of service at retirement;
 3. One and eighty-five hundredths percent (1.85%) of the member's final average salary for each year of service if the member has earned greater than twenty (20) but less than twenty-seven (27) years of service at retirement; or
 4. Two percent (2%) of the member's final average salary for each year of service if the member has earned twenty-seven (27) or more years of service at retirement; and
- (f) The retirement allowance of a member at retirement, as measured on a life annuity, shall not exceed the member's last yearly salary or the member's final average salary, whichever is the greater amount. For purposes of this section, "yearly salary" means the compensation earned by a member during the most recent period of contributing service, either consecutive or nonconsecutive, preceding the member's effective retirement date and shall be subject to the provisions of KRS 161.220(9) and (10).
- (2) Effective July 1, 2002, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option shall be increased in the amount of one and one-half percent (1.5%), provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase.
 - (3) Any member qualifying for retirement under a life annuity with refundable balance

shall be entitled to receive an annual allowance amounting to not less than four hundred dollars (\$400) effective July 1, 2002, and not less than four hundred forty dollars (\$440) effective July 1, 2003, multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection, except the following:

- (a) Individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2008; or
 - (b) Members whose retirement allowance payment is reduced below the minimum allowance as a result of its division in a qualified domestic relations order or any other provision permitted under KRS 161.700.
- (4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the member and his beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.
- (5) Effective July 1, 2008, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed three and one-half percent (3.5%) of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2008-2010 biennium

budget appropriation.

- (6) Effective July 1, 2009, the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed seven-tenths of one percent (0.7%) of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2008-2010 biennium budget appropriation.
- (7) Effective July 1, 1990, monthly payments of two hundred dollars (\$200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of the child or until the time the mental or physical condition creating the dependency no longer exists or the child enters into matrimony~~[marries]~~. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.
- (8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code.
- (9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall not be used in determining a member's retirement

annuity. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year beginning after December 31, 1995.

➔Section 118. KRS 161.630 is amended to read as follows:

- (1) A member, upon retirement, shall receive a retirement allowance in the form of a life annuity, with refundable balance, as provided in KRS 161.620, unless an election is made before the effective date of retirement to receive actuarially equivalent benefits under options which the board of trustees approves. No option shall provide for a benefit with an actuarial value at the age of retirement greater than that provided in KRS 161.620. This section does not apply to disability allowances as provided in KRS 161.661(1).
- (2) The retirement option chosen by a retiree at the time of service retirement shall remain in force unless the retiree elects to make a change under the following conditions:
 - (a) A divorce, annulment, or matrimonial~~[marriage]~~ dissolution following retirement shall, at the election of the retiree, cancel any optional plan selected at retirement that provides continuing benefits to a spousal beneficiary and return the retiree to a single lifetime benefit equivalent as determined by the board; or
 - (b) Following matrimony~~[marriage]~~ or entry into a subsequent matrimony~~[remarriage]~~, or the death of the designated beneficiary, a retiree may elect a new optional plan of payment based on the actuarial equivalent of a single lifetime benefit at the time of the election, as determined by the board. The plan shall become effective the first of the month following receipt of an application on a form approved by the board.

- (3) Except as otherwise provided in this section, a beneficiary designation shall not be changed after the effective date of retirement except for retirees who elect the life annuity with refundable balance or the predetermined years certain and life thereafter option. A member may remove a beneficiary at any time, but shall not designate a substitute beneficiary. If a member elects to remove a beneficiary, the member's retirement allowance shall not change regardless of the retirement option selected by the member, even if the removed beneficiary predeceases the member.
- (4) A member who experiences a qualifying event under subsection (2) of this section and who elects a new optional plan of payment shall make that election within sixty (60) days of the qualifying event.

➔Section 119. KRS 161.655 is amended to read as follows:

- (1) Effective July 1, 2000, the Teachers' Retirement System shall:
 - (a) Provide a life insurance benefit in a minimum amount of five thousand dollars (\$5,000) for its members who are retired for service or disability. This life insurance benefit shall be payable upon the death of a member retired for service or disability to the member's estate or to a party designated by the member on a form prescribed by the retirement system; and
 - (b) Provide a life insurance benefit in a minimum amount of two thousand dollars (\$2,000) for its active contributing members. This life insurance benefit shall be payable upon the death of an active contributing member to the member's estate or to a party designated by the member on a form prescribed by the retirement system.
- (2) The member may name one (1) primary and one (1) contingent beneficiary for receipt of the life insurance benefit. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of the life insurance benefit. Members may designate as beneficiaries only presently identifiable and existing individuals, or trusts where otherwise permitted, without contingency

instructions, on forms prescribed by the retirement system. In the event that a member fails to designate a beneficiary, or all designated beneficiaries predecease the member, the member's estate shall be deemed to be the beneficiary. Any beneficiary designation made by the member, including the estate should the estate become the beneficiary by default, shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent matrimony~~[marriage]~~ or divorce. A valid matrimony~~[marriage]~~ license shall terminate any previously designated beneficiary, even that of a trust, and establish the spouse as beneficiary unless, subsequent proof of the matrimony~~[marriage]~~, the member or retired member redesignates someone other than the new spouse as the beneficiary. A final divorce decree shall terminate the beneficiary status of an ex-spouse unless, subsequent to divorce, the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.

- (3) Application for payment of life insurance proceeds shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the coverage and payment of proceeds by the life insurance benefit under this section.
- (4) Suit or civil action shall not be required for the collection of the proceeds of the life insurance benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the proceeds of the life insurance benefit.
- (5) Upon the death of a member of the Teachers' Retirement System, the life insurance provided pursuant to subsection (1) of this section may be assigned by the designated beneficiary to a bank or licensed funeral home.

➔Section 120. KRS 161.700 is amended to read as follows:

- (1) Except as otherwise provided by this section and KRS 161.655(5), the right of a member to a retirement allowance and to the return of contributions, any benefit or right accrued or accruing to any person under KRS 161.220 to 161.716, and the money in the various funds established pursuant to KRS 161.220 to 161.716 are hereby exempt from any state or municipal tax, and shall not be subject to execution, garnishment, attachment, or other process, and shall not be assigned.
- (2) Notwithstanding subsection (1) of this section, retirement benefits accrued or accruing to any person under this retirement system on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.
- (3) Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be classified as matrimonial~~marital~~ property pursuant to KRS 403.190(1), except to the extent permitted under KRS 403.190(4). Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be considered as an economic circumstance during the division of matrimonial~~marital~~ property in an action for dissolution of matrimony~~marriage~~ pursuant to KRS 403.190(1)(d), except to the extent permitted under KRS 403.190(4).
- (4) Qualified domestic relations orders issued by a court or administrative agency shall be honored by the retirement system if:
 - (a) The benefits payable pursuant to the order meet the requirements of a qualified domestic relations order as provided by 26 U.S.C. sec. 414(p). The retirement system shall follow applicable provisions of 26 U.S.C. sec. 414(p) in administering qualified domestic relations orders;
 - (b) The order meets the requirements established by the retirement system and by subsections (4) to (12) of this section. The board of trustees of the retirement system shall establish the requirements, procedures, and forms necessary for

- the administration of qualified domestic relations order by promulgation of administrative regulations in accordance with KRS Chapter 13A; and
- (c) The order is on the form established by the retirement system pursuant to the retirement system's authority provided under paragraph (b) of this subsection.
- (5) A qualified domestic relations order shall not:
- (a) Require the retirement system to take any action not authorized under state or federal law;
 - (b) Require the retirement system to provide any benefit, allowance, or other payment not authorized under state or federal law;
 - (c) Grant or be construed to grant the alternate payee any separate right, title, or interest in or to any retirement benefit other than to receive payments from the participant's account in accordance with the administrative regulations promulgated by the system and as provided by subsections (4) to (12) of this section; or
 - (d) Grant any separate interest to any person other than the participant.
- (6) Any qualified domestic relations order submitted to the retirement system shall specify the dollar amount or percentage amount of the participant's benefit to be paid to the alternate payee. In calculating the amount to be paid to the alternate payee, the court or administrative agency that is responsible for issuing the order shall follow the requirements set forth in the administrative regulations promulgated by the board of trustees. Notwithstanding any other statute to the contrary, the board shall not be required to honor a qualified domestic relations order that does not follow the requirements set forth in the administrative regulations promulgated by the board of trustees.
- (7) If the qualified domestic relations order meets the requirements established by the system and by subsections (4) to (12) of this section, payments to the alternate payee shall be distributed under the following conditions:

- (a) If the participant is retired and is receiving a monthly benefit, the month following the date the retirement system receives a qualified domestic relations order that complies with the administrative regulations promulgated by the retirement system and subsections (4) to (12) of this section; or
 - (b) If the participant is not retired, the month of the participant's effective retirement date in which the first retirement allowance is payable to the participant or the month in which the participant receives a refund of contributions as provided by KRS 161.470(6).
- (8) An alternate payee's benefits and rights under a qualified domestic relations order shall terminate upon the earlier of:
- (a) The death of the participant;
 - (b) The death of the alternate payee; or
 - (c) The termination of benefits to the participant under any provision of KRS 161.220 to 161.716.
- (9) An alternate payee shall not receive a monthly payment under a qualified domestic relations order if the participant is not receiving a monthly retirement allowance.
- (10) The cost of living adjustment provided to the participant pursuant to KRS 161.620 shall be divided between the participant and alternate payee in a qualified domestic relations order as follows:
- (a) If the order specifies the alternate payee is to receive a percentage of the participant's benefit, then the cost of living adjustment shall be divided between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or
 - (b) If the order specifies that the alternate payee is to receive a set dollar amount of the participant's benefit, then the order shall specify that:
 - 1. The cost of living adjustment shall be divided between the participant

and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or

2. The alternate payee shall receive no cost of living adjustment.

If the order does not specify the division of the cost of living adjustment as required by this paragraph, then no cost of living adjustment shall be payable to the alternate payee. If no cost of living adjustment is provided to the alternate payee, then the participant shall receive the full cost of living adjustment he or she would have received if the order had not been applied to the participant's account.

- (11) Except in cases involving child support payments, the retirement system may charge reasonable and necessary fees and expenses to the recipient and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by retirement system. All fees and expenses shall be established by the administrative regulations promulgated by the board of trustees of the retirement system. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:

- (a) Solely by the participant;
- (b) Solely by the alternate payee; or
- (c) Equally shared by the participant and alternate payee.

- (12) The retirement system shall honor a qualified domestic relations order issued prior to July 15, 2010, for prospective benefit payments if the order or an amended version of the order meets the requirements established by this section and the administrative regulations promulgated by the retirement system. The order shall not apply to benefit payments issued by the retirement system prior to the date the order was approved by the retirement system.

➔Section 121. KRS 164.2841 is amended to read as follows:

- (1) (a) Any person whose parent, or any ~~nonmarried~~ widow or widower **who did not enter into a subsequent matrimony** whose spouse, was a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter and who was killed while in active service or training for active service or who died as a result of a service-connected disability shall not be required to pay any matriculation or tuition fee upon admission to any state-supported university, community college, or vocational training institution. The provisions of this subsection shall apply to any firefighter or volunteer firefighter who is killed or dies under the conditions covered in this subsection on July 1, 1989, or thereafter.
- (b) In order to obtain the benefits conferred by paragraph (a) of this subsection, the parent-child relationship shall be shown by birth certificate, adoption papers, or other documentary evidence. The spousal relationship shall be shown by a **matrimony**~~marriage~~ certificate or other documentary evidence. The parent's or spouse's service and the cause of death shall be evidenced by certification from the records of the Kentucky Justice and Public Safety Cabinet, the appropriate city or county law enforcement agency which employed the deceased, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.
- (2) (a) Any person whose parent, or any ~~nonmarried~~ widow or widower **who did not enter into a subsequent matrimony** whose spouse, was an employee participating in a state-administered retirement system, and not otherwise covered by subsection (1) of this section, and who died as a result of a duty-related injury as described in KRS 61.621 shall not be required to pay any matriculation or tuition fee upon admission to any state-supported university,

community college, or vocational training institution.

- (b) In order to obtain the benefits conferred by paragraph (a) of this subsection, the parent-child relationship shall be shown by birth certificate, adoption papers, or other documentary evidence. The spousal relationship shall be shown by a matrimony~~[marriage]~~ certificate or other documentary evidence. The parent's or spouse's service and the cause of death shall be evidenced by certification from the records of the employing agency or the appropriate retirement system.
- (3) If one so admitted to a state-supported university, community college, or vocational training institution under the provisions of this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of his attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

➔Section 122. KRS 164.2842 is amended to read as follows:

- (1) (a) The spouse, regardless of age, and any child of a permanently and totally disabled law enforcement officer, firefighter, or volunteer firefighter injured while in active service or in training for active service, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state-supported university, community college, or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.
- (b) For the spouse or child to be entitled to benefits under this section, the disabled law enforcement officer, firefighter, or volunteer firefighter shall be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the Kentucky Justice

and Public Safety Cabinet, the appropriate city or county law enforcement agency which employed the disabled, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, or if deceased, the claim to benefits is to be based on the rating held by the law enforcement officer, firefighter, or volunteer firefighter at the time of death. The parent's or spouse's service and rating shall be evidenced by certification from the records of the Kentucky Justice and Public Safety Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.

- (c) In the absence of certification of permanent and total disability by the Kentucky Department of Workers' Claims, the Kentucky Justice and Public Safety Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, medical evidence showing permanent and total disability or the existence of permanent and total disability for a period of at least thirty (30) days immediately prior to death may be accepted, if this evidence is signed by a physician licensed to practice or an official of an accredited medical hospital.
- (d) The parent-child relationship shall be shown by birth certificate, legal adoption papers, or other documentary evidence. The spousal relationship shall be shown by a matrimony~~[marriage]~~ certificate or other documentary

evidence.

- (e) To entitle a spouse or child to benefits under this section the disabled law enforcement officer, firefighter, or volunteer firefighter shall have been a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter.
- (2) (a) The spouse, regardless of age, and any child of a person who was an employee participating in a state-administered retirement system and not otherwise covered by subsection (1) of this section and who was disabled as a result of a duty-related injury as described in KRS 61.621, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state-supported university, community college, or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.
- (b) The parent-child relationship shall be shown by birth certificate, legal adoption papers, or other documentary evidence. The spousal relationship shall be shown by a matrimony~~[marriage]~~ certificate or other documentary evidence.
- (3) The matrimony~~[marriage]~~ of an eligible child shall not serve to deny full entitlement to the benefits provided in this section.

➔Section 123. KRS 164.505 is amended to read as follows:

- (1) A person shall not be required to pay any matriculation or tuition fees upon admission to any state-supported university, junior college, or vocational training institution if the person's deceased parent or stepparent, or if the person's deceased spouse if the person has not entered into a subsequent matrimony~~[remarried]~~, was a resident of the Commonwealth of Kentucky upon joining the Kentucky National Guard or upon entering military service and:

- (a) Was killed while serving in state active duty, active duty for training, or inactive duty training with the Kentucky National Guard, or while on active duty in the Armed Forces of the United States, during a national emergency, or was declared by Congress, or actions of the United Nations, or was killed by hostile fire while on active duty in the Armed Forces of the United States or the Kentucky National Guard; or
 - (b) Died as a result of a service-connected disability acquired while serving in state active duty, active duty for training, or inactive duty training with the Kentucky National Guard or Reserve Component, or while on active duty in the Armed Forces of the United States, during a national emergency, or was declared by Congress, or actions of the United Nations.
- (2) In order to obtain the benefits conferred by subsection (1), the parent-child relationship must be shown by birth certificate, adoption papers, matrimony~~[marriage]~~ certificate, or other documentary evidence. A stepchild must have been a member of the veteran's household at the time of the veteran's death. The spousal relationship must be shown by a matrimony~~[marriage]~~ certificate or other documentary evidence. The parent's or spouse's service and the cause of death must be evidenced by certification from the records of the Kentucky Department of Military Affairs or the Veterans Administration Records, or the Department of Defense of the United States. In the event one so admitted to a state-supported university, junior college, or vocational training institution under the provisions of this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

➔Section 124. KRS 164.507 is amended to read as follows:

- (1) The ~~nonremarried~~ spouse who has not entered into a subsequent matrimony, regardless of age, and any child, stepchild, or orphan, under the age of twenty-six (26), of a deceased veteran shall not be required to pay any matriculation or tuition fees upon admission to any state-supported university, junior college, or vocational training institute for a period not in excess of forty-five (45) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion, if the deceased parent or spouse:
- (a) 1. Served in the Armed Forces of the United States during a national emergency, was declared by Congress, or actions of the United Nations;
or
2. Died while on active duty in the Armed Forces of the United States regardless of wartime service; or
3. Died as a result of a service-connected disability acquired while on active duty with the Armed Forces of the United States regardless of wartime service; and
- (b) 1. Was a resident of the Commonwealth of Kentucky at the time of death;
or
2. Had entered into matrimony with ~~Was married to~~ a resident of Kentucky at the time of death; and
3. If discharged, was under honorable conditions.
- (2) In order to obtain the benefits conferred by subsection (1), the parent-child relationship must be shown by birth certificate, adoption papers, matrimony ~~marriage~~ certificate, or other documentary evidence. A stepchild must have been a member of the veteran's household at the time of the veteran's death. The spousal relationship must be shown by a matrimony ~~marriage~~ certificate or other documentary evidence. The parent's or spouse's service and the cause of death must be evidenced by certification from the records of the Kentucky Department of

Military Affairs, the Veterans Administration Records, or the Department of Defense of the United States. In the event one so admitted to a state-supported university, junior college, or vocational training institution under this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

➔Section 125. KRS 164.512 is amended to read as follows:

- (1) The child of a veteran, regardless of age, who has acquired a disability as a direct result of the veteran's service shall be eligible to receive a waiver of tuition upon admission to any state-supported university, college, or vocational training institute.
- (2) To be entitled to benefits under this section, the child claiming benefits must have acquired a disability determined by the United States Veterans Administration as compensable.
- (3) The parent-child relationship must be shown by birth certificate, matrimony~~[marriage]~~ certificate, or other documentary evidence.
- (4) To entitle a child to benefit under this section the member of the National Guard or Reserve Component veteran living or deceased must have served on state active duty, active duty for training, or inactive duty training or the veteran must have served on active duty with the Armed Forces of the United States, and the discharge must have been under honorable conditions. The veteran must be a resident or, if deceased, must have been a resident of the Commonwealth of Kentucky.

➔Section 126. KRS 164.515 is amended to read as follows:

- (1) The spouse, regardless of age, and any child, stepchild, or orphan, under the age of twenty-six (26), of a permanently and totally disabled member of the Kentucky National Guard or Reserve Component injured while on state active duty, active duty for training, or inactive duty training, or a permanently and totally disabled war

veteran, or a one hundred percent (100%) service-connected disabled veteran regardless of wartime service, or prisoner of war or member of the Armed Services declared missing in action shall not be required to pay any matriculation or tuition fees upon his admission to any state-supported institution of higher education or to any state-supported vocational training school for a period not in excess of forty-five (45) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.

- (2) To be entitled to benefits under this section the parent or stepparent of the child claiming benefits if living must be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the United States Veterans Administration or the Department of Defense. If the veteran is deceased, the claim to benefits is to be based on the rating held by the veteran at the time of death or if a prisoner of war or missing in action, must have been declared as such by the Department of Defense. Members of the Kentucky National Guard must be rated permanently and totally disabled as provided in KRS Chapter 342. The parent's, stepparent's, or spouse's service and rating must be evidenced by certification from the records of the Kentucky Department of Military Affairs, Veterans Administration Records, or the Department of Defense of the United States.
- (3) The parent-child relationship must be shown by birth certificate, legal adoption papers, matrimony~~marriage~~ certificate, or other documentary evidence. A stepchild must be a member of the veteran's household. The spousal relationship must be shown by a matrimony~~marriage~~ certificate or other documentary evidence.
- (4) To entitle a spouse, child, stepchild, or orphan to benefit under this section the disabled member of the National Guard or Reserve Component veteran living or deceased must have served on state active duty, active duty for training, or inactive

duty training or active duty with the Armed Forces of the United States, and his discharge must have been under honorable conditions. He must be a resident or, if deceased, have been a resident of the Commonwealth of Kentucky.

- (5) No provision of this section shall serve to deny these benefits to an eligible spouse, child, stepchild, or orphan, who enlists, or who fulfills a military obligation, in the Armed Forces of the United States and is discharged under honorable conditions; the period of time spent in the military service to be compensated by like time, beyond the age of twenty-six (26) years if required, but not in excess of the period of enrollment as set forth in subsection (1) of this section.
- (6) The matrimony~~[marriage]~~ of an eligible child, stepchild, or orphan, shall not serve to deny full entitlement to the benefits provided in this section.

➔Section 127. KRS 186.010 is amended to read as follows:

- (1) "Cabinet," as used in KRS 186.400 to 186.640, means the Transportation Cabinet; except as specifically designated, "cabinet," as used in KRS 186.020 to 186.270, means the Transportation Cabinet only with respect to motor vehicles, other than commercial vehicles; "cabinet," as used in KRS 186.020 to 186.270, means the Department of Vehicle Regulation when used with respect to commercial vehicles.
- (2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license, or privilege, for the purpose of vehicular traffic.
- (3) "Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles.
- (4) "Motor vehicle" means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled.

"Motor vehicle" shall not include a moped as defined in this section, but shall include low-speed vehicles as defined in this section.

- (5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.
- (6) "Operator" means any person in actual control of a motor vehicle upon a highway.
- (7) (a) "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest.
- (b) A vehicle is the subject of an agreement for the conditional sale or lease, with the vendee or lessee entitled to possession of the vehicle, upon performance of the contract terms, for a period of three hundred sixty-five (365) days or more and with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.
- (c) A licensed motor vehicle dealer who transfers physical possession of a motor vehicle to a purchaser pursuant to a bona fide sale, and complies with the requirements of KRS 186A.220, shall not be deemed the owner of that motor vehicle solely due to an assignment to his dealership or a certificate of title in the dealership's name. Rather, under these circumstances, ownership shall transfer upon delivery of the vehicle to the purchaser, subject to any

applicable security interest.

- (8) (a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.
- (b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.
- (9) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses.
- (10) "Dealer" means any person engaging in the business of buying or selling motor vehicles.
- (11) "Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, sidecar attachments, pickup trucks and passenger vans which are not being used for commercial or business purposes, and motor vehicles registered under KRS 186.060.

- (12) "Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima-facie evidence that the operator is a resident of Kentucky.
- (13) "Special status individual" means:
- (a) "Asylee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "asylum status granted indefinitely pursuant to Section 208 of the Immigration & Nationality Act";
 - (b) "K-1 status" means the status of any person lawfully present in the United States who has been granted permission by the United States Department of Justice, Immigration and Naturalization Service to enter the United States for the purpose of entering into matrimony with~~marrying~~ a United States citizen within ninety (90) days from the date of that entry;
 - (c) "Refugee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "admitted as a refugee pursuant to Section 207 of the Immigration & Nationality Act"; and
 - (d) "Paroled in the Public Interest" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "paroled pursuant to Section 212 of the Immigration & Nationality Act for an indefinite period of time."
- (14) "Instruction permit" includes both motor vehicle instruction permits and motorcycle instruction permits.

- (15) "Motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three (3) wheels in contact with the ground, including vehicles on which the operator and passengers ride in an enclosed cab. "Motorcycle" shall include an alternative-speed motorcycle as defined in this section, but shall not include a tractor or a moped as defined in this section.
- (16) "Low-speed vehicle" means a motor vehicle that:
- (a) Is self-propelled using an electric motor, combustion-driven motor, or a combination thereof;
 - (b) Is four (4) wheeled; and
 - (c) Is designed to operate at a speed not to exceed twenty-five (25) miles per hour as certified by the manufacturer.
- (17) "Alternative-speed motorcycle" means a motorcycle that:
- (a) Is self-propelled using an electric motor, combustion-driven motor, or a combination thereof;
 - (b) Is three (3) wheeled;
 - (c) Has a fully enclosed cab and includes at least one (1) door for entry; and
 - (d) Is designed to operate at a speed not to exceed forty (40) miles per hour as certified by the manufacturer.
- (18) "Multiple-vehicle driving range" means an enclosed area that is not part of a highway or otherwise open to the public on which a number of motor vehicles may be used simultaneously to provide driver training under the supervision of one (1) or more driver training instructors.

➔Section 128. KRS 186.412 is amended to read as follows:

- (1) (a) A person who was under the age of eighteen (18) years at the time of application for an instruction permit and is eighteen (18) years of age or older may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one

- hundred eighty (180) days and has completed a driver training program under KRS 186.410(4).
- (b) A person who has attained the age of eighteen (18) years and is under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days.
 - (c) A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.
- (2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. Except as provided in subsection (8)(b) and (c) of this section, the application form shall require the person's:
- (a) Full legal name and signature;
 - (b) Date of birth;
 - (c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;
 - (d) Sex;
 - (e) Present Kentucky resident address, exclusive of a post office box address alone;
 - (f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;

- (g) A brief physical description of the applicant;
 - (h) A statement if the person has previously been licensed as an operator in another state;
 - (i) Proof of the person's Kentucky residency, including but not limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and
 - (j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.
- (3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services:
- (a) An I-551 card with a photograph of the applicant; or
 - (b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until -----. Employment authorized."
- (4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
- (a) The application form shall be accompanied by the person's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's

completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of entering into a matrimony~~[marriage]~~ that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the matrimony~~[marriage]~~ license, the Transportation Cabinet shall not be required to issue an operator's license.

- (b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.
- (c) If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license.
- (d) Except as provided in paragraphs (e) and (f) of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.
- (e) If a person is renewing an operator's license or is applying for a duplicate

license after July 15, 2002, and the person's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, has not been reviewed by either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

- (f) If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
- (5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate

by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

- (6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.
- (7)
 - (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo personal identification card to any person who is a Kentucky resident and who resides in the county who complies with the provisions of this section and who applies in person in the office of the circuit clerk. An application for a personal identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.
 - (b) It shall be permissible for the application form for a personal identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.
 - (c) Every applicant for a personal identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the personal identification card. The personal identification card shall designate by color

coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

- (d) A personal identification card shall be valid for a period of four (4) years from the date of issuance, except that if the personal identification card is issued to a person who does not have a fixed, permanent address, then the personal identification card shall be valid for one (1) year from the date of issuance. Except as provided in this subsection, an initial or renewal personal identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services is issued, or four (4) years, whichever time period is shorter. An initial or renewal personal identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular personal identification card.
- (e) A personal identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.
- (8) (a) A person may be issued a personal identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary personal identification card. A temporary personal identification shall be renewed annually and may be surrendered

when the person applies to have his or her instruction permit or operator's license reinstated.

- (b) Upon receipt of proper documentation provided by the Department of Corrections, the circuit clerk of the county in which a released felony offender resides shall issue to any felony offender, if the felony offender is eligible, released from the Department of Corrections on home incarceration, parole, completed service of sentence, shock probation, or pardon, a personal identification card or, if the felony offender is eligible, an operator's license. Proper documentation under this paragraph shall consist of:

1. The offender's certificate of birth, except for offenders born outside this state;
2. A copy of the offender's resident record card and parole certificate or notice of discharge;
3. A photograph of the offender, printed on plastic card or paper; and
4. A release letter that shall contain the offender's:
 - a. Full legal name, subject to the information available to the Department of Corrections;
 - b. Discharge/release date;
 - c. Signature;
 - d. Social Security number;
 - e. Date of birth;
 - f. Present Kentucky address where he or she resides; and
 - g. Physical description.

The offender shall present this documentation to the circuit clerk within thirty (30) calendar days from the date of the release letter and shall be responsible for paying the fee for the personal identification card or operator's license pursuant to KRS 186.531. The provisions of this paragraph shall apply only to

persons released on or after July 15, 2010.

- (c) Upon receipt of proper documentation provided by the Department of Corrections, the circuit clerk of the county in which a felony offender resides shall issue to any felony offender, if the felony offender is eligible, probated or conditionally discharged by the court and under the supervision of the Division of Probation and Parole, a personal identification card or, if the felony offender is eligible, an operator's license. Proper documentation under this paragraph shall consist of:

1. The offender's certificate of birth, except for offenders born outside this state;
2. The offender's sentencing order;
3. A photograph of the offender, printed on plastic card or paper; and
4. A notarized release letter, signed by the supervising officer verifying the offender's status on supervision, that shall contain the offender's:
 - a. Full legal name, subject to the information available to the Division of Probation and Parole;
 - b. Signature;
 - c. Social Security number;
 - d. Date of birth;
 - e. Present Kentucky address where he or she resides; and
 - f. Physical description.

The offender shall present this documentation to the circuit clerk within thirty (30) calendar days from the date of the notarized release letter. The offender shall be responsible for paying the fee for the personal identification card or operator's license pursuant to KRS 186.531. The provisions of this paragraph shall apply only to persons released on or after July 15, 2010.

- (9) The Transportation Cabinet shall implement a voluntary statewide child

identification program. The program shall issue a color photo personal identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Department of Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar (\$4) fee for the child identification card. Two dollars (\$2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars (\$2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars (\$4), with two dollars (\$2) of the fee going to the cabinet and two dollars (\$2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.

- (10) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon

the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."

- (11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."
- (12) (a) If a citizen of the Commonwealth has been serving in the United States military stationed or assigned to a base or other location outside the boundaries of the Commonwealth and has allowed his or her operator's license to expire, he or she shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his or her license without having to take a written test or road test.
- (b) A citizen who meets the criteria in paragraph (a) of this subsection shall not be convicted or cited for driving on an expired license prior to license renewal during the ninety (90) days after the person's return to the Commonwealth if the person can provide proof of his or her out-of-state service and dates of assignment.
- (c) A citizen who meets the criteria in paragraph (a) of this subsection and who does not renew his or her license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired.
- (d) If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's

license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.

- (13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:
- (a) Blood type;
 - (b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and
 - (c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.1917.
- (14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of two dollars (\$2) paid to the circuit clerk, two (2) medical insignia decals that may be affixed to the driver's side of the front windshield of a motor vehicle and to the driver's side of the rear window of a motor vehicle.
- (15) An operator's license pursuant to this section shall be designated a Class D license.
- (16) A person shall not have more than one (1) license.
- (17) Upon entering into matrimony~~[marriage]~~, a woman applying for an operator's license or a color photo personal identification card shall provide the circuit clerk with her matrimony~~[marriage]~~ license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:
- (a) Use her husband's last name;
 - (b) Retain her maiden name;
 - (c) Use her maiden name hyphenated with her husband's last name;
 - (d) Use her maiden name as a middle name and her husband's last name as her

last name; or

- (e) In the case of a previous matrimony~~[marriage]~~, retain that husband's last name.
- (18) Upon issuing an operator's license or personal identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.
- (19) Any person who served in the active Armed Forces of the United States, including the Coast Guard of the United States, and was released, separated, discharged, or retired therefrom under conditions other than dishonorable, may, at the time of initial application or application for renewal or duplicate, request that an operator's license or a personal identification card issued under this section bear the word "veteran" on the face or the back of the license or personal identification card. The designation shall be in a style and format considered appropriate by the Transportation Cabinet. Prior to obtaining a designation requested under this subsection, the applicant shall present the circuit clerk with an original or copy of his or her DD-214 or DD-2 form as proof of veteran status. The circuit clerk shall not be liable for fraudulent or misread DD-214 or DD-2 forms presented.

➔Section 129. KRS 186.540 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, when any person, after applying for or receiving an operator's license, moves from the address named in the application or license issued to him or when the name of a licensee is changed, by matrimony~~[marriage]~~ or otherwise, the person shall within ten (10) days after the change apply to the circuit clerk in his county of residence for the issuance of a corrected license.

- (2) If a license holder's street name or postal address is changed and the license holder has not moved to a new residence, the license holder shall apply to the circuit clerk for a corrected license, free of charge.

➔Section 130. KRS 186A.235 is amended to read as follows:

- (1) Whenever any person after making application for or obtaining a certificate of registration or title for a vehicle, shall move from the address named in the application or shown upon a registration card or certificate of title, such person shall within fifteen (15) days thereafter notify the county clerk of the county in which he resides in writing of his old and new addresses as well as the current license number of all vehicles currently registered or titled in his name. The county clerk shall immediately enter such change into the automated system.
- (2) Whenever the name of any person who has made application for or obtained a certificate of registration or title for a vehicle is thereafter changed by matrimony~~[marriage]~~ or otherwise, such person shall within fifteen (15) days notify the county clerk of the county of residence of such former and new name. The county clerk shall immediately enter such change into the automated system.

➔Section 131. KRS 199.011 is amended to read as follows:

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

- (1) "Secretary" means the secretary for health and family services;
- (2) "Cabinet" means the Cabinet for Health and Family Services;
- (3) "Department" means the Department for Community Based Services;
- (4) "Child" means any person who has not reached his eighteenth birthday;
- (5) "Adult adopted person" means any adopted person who is twenty-one (21) years of age or older;
- (6) "Child-caring facility" means any institution or group home, including institutions and group homes that are publicly operated, providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or

matrimony~~[marriage]~~ to the person maintaining the facility, other than an institution or group home certified by an appropriate agency as operated primarily for educational or medical purposes, or a residential program operated or contracted by the Department of Juvenile Justice that maintains accreditation, or obtains accreditation within two (2) years of opening from a nationally recognized accrediting organization;

- (7) "Child-placing agency" means any agency licensed by the cabinet which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption;
- (8) "Adoption worker" means an employee of the cabinet so designated by the secretary for health and family services, a social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, adoption placement services to children, or a social worker employed by or under contract to a child-placing adoption agency;
- (9) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency;
- (10) "Group home" means a homelike facility, excluding Department of Juvenile Justice operated or contracted facilities, for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources;
- (11) "Institution" means a child-caring facility providing care or maintenance for nine (9) or more children;
- (12) "Family rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons;
- (13) "Placement services" means those social services customarily provided by a licensed child-placing or a public agency which are necessary for the arrangement and placement of children in foster family homes, child-placing facilities, or

adoptive homes. Placement services are provided through a licensed child-placing or a public agency for children who cannot be cared for by their biological parents and who need and can benefit from new and permanent family ties established through legal adoption. Licensed child-placing agencies and public agencies have a responsibility to act in the best interests of children, biological parents, and adoptive parents by providing social services to all the parties involved in an adoption; and

(14) "Voluntary and informed consent" means that at the time of the execution of the consent the consenting person was fully informed of the legal effect of the consent, that the consenting person was not given or promised anything of value except those expenses allowable under KRS 199.590(6), that the consenting person was not coerced in any way to execute the consent, and that the consent was voluntarily and knowingly given. If at the time of the execution of the consent the consenting person was represented by independent legal counsel, there shall be a presumption that the consent was voluntary and informed. The consent shall be in writing, signed and sworn to by the consenting person and include the following:

- (a) Date, time, and place of the execution of the consent;
- (b) Name of the child, if any, to be adopted and the date and place of the child's birth;
- (c) Consenting person's relationship to the child;
- (d) Identity of the proposed adoptive parents or a statement that the consenting person does not desire to know the identification of the proposed adoptive parents;
- (e) A statement that the consenting person understands that the consent will be final and irrevocable under this paragraph unless withdrawn under this paragraph.

1. If placement approval by the secretary is required, the voluntary and informed consent shall become final and irrevocable twenty (20) days

after the later of the placement approval or the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the twentieth day by certified or registered mail and also by first class mail.

2. If placement approval by the secretary is not required, the voluntary and informed consent shall become final and irrevocable twenty (20) days after the execution of the voluntary and informed consent. This consent may be withdrawn only by written notification sent to the proposed adoptive parent or the attorney for the proposed adoptive parent on or before the twentieth day by certified or registered mail and also by first class mail;
 - (f) Disposition of the child if the adoption is not adjudged;
 - (g) A statement that the consenting person has received a completed and signed copy of the consent at the time of the execution of the consent;
 - (h) Name and address of the person who prepared the consent, name and address of the person who reviewed and explained the consent to the consenting person, and a verified statement from the consenting person that the consent has been reviewed with and fully explained to the consenting person; and
 - (i) Total amount of the consenting person's legal fees, if any, for any purpose related to the execution of the consent and the source of payment of the legal fees.

➔Section 132. KRS 199.410 is amended to read as follows:

- (1) The provisions of KRS 199.380 to 199.400 shall not affect or apply to boarding homes in which children under the care, custody or control of the cabinet, or receiving aid from the cabinet, are being boarded, and which have been approved by the cabinet as meeting the standards of the cabinet for placement, nor shall the

provisions of KRS 199.380 to 199.400 affect persons caring for and providing for children related to them by blood or matrimony~~[marriage]~~.

- (2) KRS 199.380 to 199.400 shall apply only to counties containing a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census.

➔Section 133. KRS 199.470 is amended to read as follows:

- (1) Any person who is eighteen (18) years of age and who is a resident of this state or who has resided in this state for twelve (12) months next before filing may file a petition for leave to adopt a child in the Circuit Court of the county in which the petitioner resides.
- (2) If the petitioner has entered into matrimony~~[is married]~~, the husband or wife shall join in a petition for leave to adopt a child unless the petitioner has entered into matrimony with~~[is married to]~~ a biological parent of the child to be adopted, except that if the court finds the requirement of a joint petition would serve to deny the child a suitable home, the requirement may be waived.
- (3) If a child is placed for adoption by the cabinet, by an agency licensed by the cabinet, or with written approval by the secretary of the cabinet, the petition may be filed at the time of placement. In all other adoptions, the petition shall not be filed until the child has resided continuously in the home of the petitioner for at least ninety (90) days immediately prior to the filing of the adoption petition.
- (4) No petition for adoption shall be filed unless prior to the filing of the petition the child sought to be adopted has been placed for adoption by a child-placing institution or agency, or by the cabinet, or the child has been placed with written approval of the secretary; but no approval shall be necessary in the case of:
 - (a) A child sought to be adopted by a stepparent, grandparent, sister, brother, aunt, uncle, great grandparent, great aunt, or great uncle; however, the court in its discretion may order a report in accordance with KRS 199.510 and a

background check as provided in KRS 199.473(8);

- (b) A child received by the proposed adopting parent or parents from an agency without this state with the written consent of the secretary; or
 - (c) A child adopted under the provisions of KRS 199.585(1).
- (5) Subsection (4) of this section shall not apply to children placed for adoption prior to June 14, 1962.

➔Section 134. KRS 199.480 is amended to read as follows:

- (1) The following persons shall be made parties defendant in an action for leave to adopt a child:
- (a) The child to be adopted;
 - (b) The biological living parents of a child under eighteen (18), if the child is born in lawful wedlock. If the child is born out of wedlock, its mother; and its father, if one (1) of the following requirements is met:
 1. He is known and voluntarily identified by the mother by affidavit;
 2. Prior to the entry of a final order in a termination proceeding, he has acknowledged the child as his own by affirmatively asserting paternity in the action or to the custodial agency or the party bringing the action within sixty (60) days after the birth of the child;
 3. He has caused his name to be affixed to the birth certificate of the child;
 4. He has commenced a judicial proceeding claiming parental right;
 5. He has contributed financially to the support of the child, either by paying the medical or hospital bills associated with the birth of the child or financially contributed to the child's support; or
 6. He has *entered into matrimony with*~~married~~ the mother of the child or has lived openly or is living openly with the child or the person designated on the birth certificate as the biological mother of the child.

A putative father shall not be made a party defendant if none of the

requirements set forth above have been met, and a biological parent shall not be made a party defendant if the parental rights of that parent have been terminated under KRS Chapter 625, or under a comparable statute of another jurisdiction;

- (c) The child's guardian, if it has one.
 - (d) If the care, custody, and control of the child has been transferred to the cabinet, or any other individual or individuals, institution, or agency, then the cabinet, the other individual or individuals, institution, or agency shall be named a party defendant, unless the individual or individuals, or the institution or agency is also the petitioner.
- (2) Each party defendant shall be brought before the court in the same manner as provided in other civil cases except that if the child to be adopted is under fourteen (14) years of age and the cabinet, individual, institution, or agency has custody of the child, the service of process upon the child shall be had by serving a copy of the summons in the action upon the cabinet, individual, institution or agency, any provision of CR 4.04(3) to the contrary notwithstanding.
- (3) If the child's biological living parents, if the child is born in lawful wedlock, or if the child is born out of wedlock, its mother, and if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child, its father, are parties defendant, no guardian ad litem need be appointed to represent the child to be adopted.

➔Section 135. KRS 199.490 is amended to read as follows:

- (1) The petition shall allege:
- (a) The name, date, place of birth, place of residence, and mailing address of each petitioner, and, if *the petitioners have entered into matrimony*~~[married]~~, the date and place of their *matrimony*~~[marriage]~~;
 - (b) The name, date, place of birth, place of residence, and mailing address, if

- known, of the child sought to be adopted;
- (c) Relationship, if any, of the child to each petitioner;
 - (d) Full name by which the child shall be known after adoption;
 - (e) A full description of the property, if any, of the child so far as it is known to the petitioner;
 - (f) The names of the parents of the child and the address of each living parent, if known. The name of the biological father of a child born out of wedlock shall not be given unless paternity is established in a legal action, or unless an affidavit is filed stating that the affiant is the father of the child. If certified copies of orders terminating parental rights are filed as provided in subsection (2) of this section, the name of any parent whose rights have been terminated shall not be given;
 - (g) The name and address of the child's guardian, if any, or of the cabinet, institution, or agency having legal custody of the child;
 - (h) Any further facts necessary for the location of the person or persons whose consent to the adoption is required, or whom KRS 199.480 requires to be made a party to or notified of the proceeding; and
 - (i) If any fact required by this subsection to be alleged is unknown to the petitioners, the lack of knowledge shall be alleged.
- (2) There shall be filed with the petition certified copies of any orders terminating parental rights. Any consent to adoption shall be filed prior to the entry of the adoption judgment.
- (3) If the petitioner was not excepted by KRS 199.470(4) or (5), a copy of the written approval of the secretary of the Cabinet for Health and Family Services or the secretary's designee shall be filed with the petition.

➔Section 136. KRS 199.641 is amended to read as follows:

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

- (a) "Allowable costs report" means a report from each child-caring facility that contracts with the department for services and includes all allowable costs as defined by the Federal Office of Management and Budget circular A-122, "cost principles for nonprofit organizations," and other information the department may require, utilizing cost data from each child-caring facility's most recent yearly audited financial statement;
 - (b) "Child-caring facility" means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or matrimony~~[marriage]~~ to the person maintaining the facility;
 - (c) "Department" means the Department for Community Based Services of the Cabinet for Health and Family Services;
 - (d) "Model program cost analysis" means a report based on a time study, the allowable costs report, and other information required by the department from each child-caring facility that contracts with the department for services that determines a statewide median cost for each licensed program category of service provided by child-caring facilities; and
 - (e) "Time study" means the process of reporting the work performed by employees of child-caring facilities in specified time periods.
- (2) Subject to the limitations set forth in subsection (4) of this section, when the department chooses to contract with a nonprofit child-caring facility for services to a child committed to the department, the department shall make payments to that facility based on the rate setting methodology developed from the model program cost analysis. The department shall also assure that the methodology:
- (a) Provides payment incentives for moving children as quickly as possible to a permanent, continuous, stable environment;

- (b) Provides children who require out-of-home care or alternative treatment with placements that are as close as possible to their home geographic area; and
 - (c) Provides appropriate placement and treatment services that effectively and efficiently meet the needs of the child and the child's family as close as possible to the child's home geographic area.
- (3) The department shall use the model program cost analysis as a basis for cost estimates for the development of the department's biennial budget request.
- (4) The secretary shall, to the extent funds are appropriated, establish and implement the rate setting methodology and rate of payment by promulgation of administrative regulations in accordance with KRS Chapter 13A that are consistent with the level and quality of service provided by child-caring facilities. The administrative regulations shall also include the forms and formats for the model program cost analysis.

➔Section 137. KRS 202A.011 is amended to read as follows:

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

- (1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;
- (2) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;
- (3) "Cabinet" means the Kentucky Cabinet for Health and Family Services;
- (4) "Psychiatric facility" means a crisis stabilization unit or any facility licensed by the cabinet and which provides inpatient, outpatient, psychosocial rehabilitation, emergency, and consultation and education services for the diagnosis and treatment of persons who have a mental illness;
- (5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof,

designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill persons or individuals with an intellectual disability, who have been charged with or convicted of a felony;

- (6) "Hospital" means:
- (a) A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the Kentucky Cabinet for Health and Family Services as equipped to provide full-time residential care and treatment for mentally ill persons or individuals with an intellectual disability;
 - (b) A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for mentally ill persons or individuals with an intellectual disability;
- (7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;
- (8) "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill individual a realistic opportunity to improve the individual's level of functioning, consistent with accepted professional practice in the least confining setting available;
- (9) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;
- (10) "Patient" means a person under observation, care, or treatment in a hospital pursuant to the provisions of this chapter;
- (11) "Petitioner" means a person who institutes a proceeding under this chapter;
- (12) "Qualified mental health professional" means:

- (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
- (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
- (c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter 319;
- (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability;
- (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of

mental health services or a regional community program for mental health and individuals with an intellectual disability;

- (f) A matrimony~~[marriage]~~ and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community program for mental health and individuals with an intellectual disability; or
 - (g) A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community program for mental health and individuals with an intellectual disability;
- (13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;
- (14) "Respondent" means a person alleged in a hearing under this chapter to be a mentally ill person or an individual with an intellectual disability;
- (15) "Secretary" means the secretary of the Cabinet for Health and Family Services.

➔Section 138. KRS 202A.400 is amended to read as follows:

- (1) No monetary liability and no cause of action shall arise against any mental health professional for failing to predict, warn of or take precautions to provide protection from a patient's violent behavior, unless the patient has communicated to the mental health professional an actual threat of physical violence against a clearly identified or reasonably identifiable victim, or unless the patient has communicated to the

mental health professional an actual threat of some specific violent act.

- (2) The duty to warn of or to take reasonable precautions to provide protection from violent behavior arises only under the limited circumstances specified in subsection (1) of this section. The duty to warn a clearly or reasonably identifiable victim shall be discharged by the mental health professional if reasonable efforts are made to communicate the threat to the victim, and to notify the police department closest to the patient's and the victim's residence of the threat of violence. When the patient has communicated to the mental health professional an actual threat of some specific violent act and no particular victim is identifiable, the duty to warn has been discharged if reasonable efforts are made to communicate the threat to law enforcement authorities. The duty to take reasonable precaution to provide protection from violent behavior shall be satisfied if reasonable efforts are made to seek civil commitment of the patient under this chapter.
- (3) No monetary liability and no cause of action shall arise against any mental health professional for confidences disclosed to third parties in an effort to discharge a duty arising under subsection (1) of this section according to the provisions of subsection (2) of this section.
- (4) For purposes of this section:
 - (a) "Mental health professional" means:
 1. A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in conducting mental health services;
 2. A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States engaged in conducting mental health services;
 3. A psychologist, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter

- 319;
4. A registered nurse licensed under the provisions of KRS Chapter 314 engaged in providing mental health services;
 5. A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 engaged in providing mental health services;
 6. A matrimony~~[marriage]~~ and family therapist licensed under the provisions of KRS 335.300 to 335.399 engaged in providing mental health services;
 7. A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 engaged in providing mental health services;
 8. An art therapist certified under KRS 309.130 engaged in providing mental health services; or
 9. A pastoral counselor licensed under the provisions of KRS 335.600 to 335.699 engaged in providing mental health services; and
- (b) "Patient" has the same meaning as in KRS 202A.011, except that it also includes a person currently under the outpatient care or treatment of a mental health professional.

➔Section 139. KRS 202B.010 is amended to read as follows:

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

- (1) "Authorized staff physician" means a person who is employed as a physician of an ICF/ID;
- (2) "Interdisciplinary team" means the group of persons responsible for the diagnosis, evaluation, and individualized program planning and service implementation for the resident. The team is composed of a physician, a psychologist, a registered nurse, a social worker, and other professionals, at least one (1) of whom is a qualified

professional in the area of intellectual disabilities, and may include the resident, the resident's family, or the guardian;

- (3) "Cabinet" means the Kentucky Cabinet for Health and Family Services;
- (4) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;
- (5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill persons or individuals with an intellectual disability who have been charged with or convicted of a felony;
- (6) "Hospital" means:
 - (a) A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, approved by the Kentucky Cabinet for Health and Family Services as equipped to provide full-time residential care and treatment for mentally ill persons or individuals with an intellectual disability;
 - (b) A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for mentally ill persons or individuals with an intellectual disability;
- (7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;
- (8) "Least restrictive alternative mode of treatment" means that treatment given in the least confining setting which will provide an individual with an intellectual disability appropriate treatment or care consistent with accepted professional practice. For purposes of this section, least restrictive alternative mode of treatment may include an institutional placement;

- (9) "Individual with an intellectual disability" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period;
- (10) "ICF/ID" means an intermediate-care facility approved by the cabinet for the evaluation, care, and treatment of individuals with an intellectual disability;
- (11) "Petitioner" means a person who institutes a proceeding under this chapter;
- (12) "Qualified professional in the area of intellectual disabilities" means:
- (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;
 - (b) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate licensed under the provisions of KRS Chapter 319;
 - (c) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience of which one (1) year is with individuals with an intellectual disability; or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who has three (3) years of inpatient or outpatient clinical experience of which one (1) year is in the field of individuals with an intellectual disability and is currently employed by an ICF/ID licensed by the cabinet, a hospital, a regional community program for mental health or individuals with an intellectual disability, or a private agency or company engaged in the provision of services to individuals with an intellectual disability;
 - (d) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with two (2) years of inpatient or outpatient clinical experience in

social work of which one (1) year shall be in the field of individuals with an intellectual disability and is currently employed by an ICF/ID licensed by the cabinet, a hospital, a regional community program for mental health or individuals with an intellectual disability, or a private agency or company engaged in the provision of services to individuals with an intellectual disability;

- (e) A matrimony~~[marriage]~~ and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community program for mental health or individuals with an intellectual disability; or
 - (f) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community program for mental health or individuals with an intellectual disability;
- (13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;
 - (14) "Resident" means a person under care or treatment in an ICF/ID pursuant to the provisions of this chapter;
 - (15) "Respondent" means a person alleged in a hearing under this chapter to be an individual with an intellectual disability; and
 - (16) "Secretary" shall mean the secretary of the Cabinet for Health and Family Services.

→Section 140. KRS 205.010 is amended to read as follows:

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

- (1) "Cabinet" means the Cabinet for Health and Family Services;
- (2) "Secretary" means the secretary for health and family services or his authorized representative;
- (3) "Public assistance" means money grants, assistance in kind, or services to or for the benefit of needy aged, needy blind, needy permanently and totally disabled persons, needy children, or persons with whom a needy child lives or a family containing a combination of these categories, except that the term shall not be construed to permit the granting of financial aid where the purpose of such aid is to obtain an abortion. For purposes of this section and KRS 205.560, "abortion" means an act, procedure, device, or prescription administered or prescribed for a pregnant woman by any person, including the pregnant woman herself, producing premature expulsion of the fetus. Abortion does not include an induced premature birth intended to produce a live viable child;
- (4) "Needy child" means a child who has been deprived of parental support by reasons prescribed by regulations within the scope of Title IV of the Social Security Act, its amendments, and federal regulations and who does not have otherwise provided for him a subsistence compatible with decency and health;
- (5) "Parent," in addition to biological or adoptive parent, shall include stepparent;
- (6) "Needy aged" means a person who has attained the age of sixty-five (65) and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;
- (7) "Needy blind" means a person who has no vision or whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

- (8) "Person with whom a needy child lives" means the individual prescribed by regulation, with whom such child is living in a place of residence maintained by such individual by himself or together with one (1) or more other persons;
- (9) "Needy permanently and totally disabled" means a person eighteen (18) years of age or older and who has a permanent physical or mental impairment, disease, or loss that substantially precludes him from engaging in useful occupations within his competence and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;
- (10) "Private institution" means any establishment or place other than a public institution operated or maintained by any individual, association, corporation, or other organization which provides a group living arrangement for four (4) or more individuals, who are cared for and maintained in residence for compensation or otherwise;
- (11) "Public institution" means any establishment or place which is the responsibility of and administered by the state or any political subdivision thereof providing a group living arrangement in which one (1) or more individuals are cared for and maintained in residence;
- (12) "Public medical institution" means any public institution the primary purpose of which is to furnish hospital care and medical treatment;
- (13) "Person determined to be potentially responsible" means any person who:
- (a) Is not aged, blind, disabled, incapacitated, or needed in the home:
 - 1. Because of the illness or incapacity of a member of the family; or
 - 2. Because of children in the home under the age of six (6); or
 - (b) Volunteers for such determination;
- (14) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death;
- (15) "Adult day-care center" means any adult care facility which provides part-time care,

day or night, but less than twenty-four (24) hours, to at least four (4) adults not related to the operator of the adult care facility by blood, matrimony~~[marriage]~~, or adoption.

➔Section 141. KRS 205.5622 is amended to read as follows:

- (1) The Kentucky Pharmaceutical Assistance Program may be established, contingent upon approval from the Centers for Medicare and Medicaid Services.
- (2) If established, the program shall be administered by the department. The program shall coordinate prescription drug coverage with the prescription drug benefit under the MMA. A person shall be eligible for drug benefits under this program if the person:
 - (a) Is a resident who is:
 1. Sixty-five (65) years of age or older; or
 2. Disabled and receiving a Social Security benefit and is enrolled in the Medicare program;
 - (b) Has a household income at or below one hundred fifty percent (150%) of the federal poverty guidelines;
 - (c) Meets the asset test;
 - (d) Is not a member of a Medicare Advantage Plan that provides a prescription drug benefit; and
 - (e) Is not a member of a retirement plan that is receiving a benefit under the MMA.
- (3)
 - (a) The department shall give initial enrollment priority to the Medicaid dual eligible population. A second enrollment priority shall be offered to Medicare eligible applicants who have annual household incomes up to one hundred fifty percent (150%) of the federal poverty guidelines and who meet the asset test.
 - (b) Enrollment for Medicaid dual eligible persons shall take effect no later than

October 1, 2005. Medicaid dual eligible persons may be automatically enrolled into the program, except that they may choose to opt out of the program. The department shall determine the procedures for automatic enrollment into and election out of the program. Applicants meeting the qualifications set forth in KRS 205.5621 to 205.5625 may begin enrolling into the program at a time and in a manner as determined by the department.

- (4) An individual or ~~a married~~ couple **who are not in a matrimonial relationship** meeting the eligibility requirements in subsection (1) of this section and not Medicaid dual eligible may apply for enrollment in the program by submitting an application to the department that attests to the age, residence, household income, and liquid assets of the individual or couple.

➔Section 142. KRS 205.710 is amended to read as follows:

As used in KRS 205.712 to 205.800, unless the context clearly dictates otherwise:

- (1) "Cabinet" shall mean the Cabinet for Health and Family Services;
- (2) "Secretary" shall mean the secretary of the Cabinet for Health and Family Services;
- (3) "Court order" shall mean any judgment, decree, or order of the courts of this state or any other state. For the purposes of KRS 205.715 to 205.800, 403.215, 405.405 to 405.520, and 530.050, it shall also include an order of an authorized administrative body;
- (4) "Dependent child" or "needy dependent child" shall mean any person under the age of eighteen (18), or under the age of nineteen (19) if in high school, who **has**~~is~~ not **been**~~otherwise~~ emancipated **or entered into matrimony**~~, self-supporting, married~~, or a member of the Armed Forces of the United States and is a recipient of or applicant for services under Part D of Title IV of the Social Security Act;
- (5) "Duty of support" shall mean any duty of support imposed or imposable by law or by court order, decree, or judgment, whether interlocutory or final, and includes the duty to pay spousal support that applies to spouses with a child even if child support

is not part of the order or when spousal support is assigned to the cabinet and arrearages of support past due and unpaid in addition to medical support whenever health-care coverage is available at a reasonable cost;

- (6) "Recipient" shall mean a relative or payee within the meaning of the Social Security Act and federal and state regulations who is receiving public assistance on behalf of a needy dependent child;
- (7) "Consumer reporting agency" means any person or organization which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports;
- (8) "Obligor" means a parent who has an obligation to provide support;
- (9) "Employer" means any individual, sole proprietorship, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which hires and pays an individual for his services;
- (10) "Income" means but is not limited to any of the following:
 - (a) Commissions, bonuses, workers' compensation awards attributable to lost wages, retirement and pensions, interest and disability, earnings, salaries, wages, and other income due or to be due in the future from a person's employer and successor employers;
 - (b) Any payment due or to be due in the future from a profit-sharing plan, pension plan, insurance contract, annuity, Social Security, proceeds derived from state lottery winnings, unemployment compensation, supplemental unemployment benefits, and workers' compensation; and

- (c) Any amount of money which is due to the obligor under a support order as a debt of any other individual, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which is indebted to the obligor;
- (11) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and notwithstanding any other provision of law exempting such payments from garnishment, attachment, or other process to satisfy support obligations and specifically includes periodic payments from pension and retirement programs and insurance policies of any kind. Earnings shall include all gain derived from capital, from labor, or both, including profit gained through sale or conversion of capital assets and unemployment compensation benefits, or any other form of monetary gain. The term "disposable earnings" means that part of earnings remaining after deductions of any amounts required by law to be withheld;
- (12) "Enforce" means to employ any judicial or administrative remedy under KRS 405.405 to 405.420 and KRS 405.991(2) or under any other Kentucky law;
- (13) "Need" includes, but is not limited to, the necessary cost of food, clothing, shelter, and medical care. The amount determined under the suggested minimum support obligation scale shall be rebuttably presumed to correspond to the parent's ability to pay and the need of the child. A parent shall be presumed to be unable to pay child support from any income received from public assistance under Title IV-A of the Social Security Act, or other continuing public assistance;
- (14) "Parent" means a biological or adoptive mother or father of a child born in wedlock or a father of a child born out of wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this or any other state, whose child is entitled to support, pursuant to court order, statute, or

administrative determination; and

- (15) "Real and personal property" includes all property of all kinds, including but not limited to, all gain derived from capital, labor, or both; compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise; periodic payments from pension and retirement programs; and unemployment compensation and insurance policies.

➔Section 143. KRS 209.160 is amended to read as follows:

- (1) There is hereby created a trust and agency account in the State Treasury to be known as the domestic violence shelter fund. Each county clerk shall remit to the fund, by the tenth of the month, ten dollars (\$10) from each twenty-four dollars (\$24) collected during the previous month from the issuance of matrimony~~[marriage]~~ licenses. The fund shall be administered by the Department of Revenue. The Cabinet for Health and Family Services shall use the funds for the purpose of providing protective shelter services for domestic violence victims.
- (2) The Cabinet for Health and Family Services shall designate one (1) nonprofit corporation in each area development district to serve as the primary service provider and regional planning authority for domestic violence shelter, crisis, and advocacy services in the district in which the designated provider is located.

➔Section 144. KRS 210.366 is amended to read as follows:

- (1) As used in this section:
- (a) "Board" means the Kentucky Board of Social Work, Kentucky Board of Licensure of Matrimony~~[Marriage]~~ and Family Therapists, Kentucky Board of Licensed Professional Counselors, Kentucky Board of Licensure for Pastoral Counselors, Kentucky Board of Alcohol and Drug Counselors, Kentucky Board of Examiners of Psychology, and Kentucky Board of Licensure for Occupational Therapy; and
- (b) "Training program in suicide assessment, treatment, and management" means

an empirically supported training program approved by the boards that contains suicide assessment including screening and referral, suicide treatment, and suicide management. A board may approve a training program that excludes one (1) of the elements if the element is inappropriate for the profession in question or inappropriate for the level of licensure or credentialing of that profession based on the profession's scope of practice. A training program that includes only screening and referral elements shall be at least three (3) hours in length. All other training programs approved under this section shall be at least six (6) hours in length.

- (2) Beginning January 1, 2015, each of the following professionals certified or licensed under KRS Title XXVI shall, at least once every six (6) years, complete a training program in suicide assessment, treatment, and management that is approved, in administrative regulations, by the respective boards:
- (a) A social worker, matrimony~~marriage~~ and family therapist, professional counselor, or pastoral counselor certified or licensed under KRS Chapter 335;
 - (b) An alcohol and drug counselor licensed or certified under KRS Chapter 309, and an alcohol and drug peer support specialist registered under KRS Chapter 309;
 - (c) A psychologist licensed or certified under KRS Chapter 319; and
 - (d) An occupational therapist licensed under KRS Chapter 319A.
- (3) (a) Except as provided in paragraph (b) of this subsection, a professional listed in subsection (2) of this section must complete the first training required by this section by July 2016.
- (b) A professional listed in subsection (2) of this section applying for initial licensure, registration, or certification on or after June 25, 2013, may delay completion of the first training required by this section for six (6) years after initial licensure, registration, or certification if he or she can demonstrate

- successful completion of a six (6) hour academic training program in suicide assessment, treatment, and management that:
1. Was completed no more than six (6) years prior to the application for initial licensure, registration, or certification; and
 2. Is listed on the best practices registry of the American Foundation for Suicide Prevention and the Suicide Prevention Resource Center.
- (4) The hours spent completing a training program in suicide assessment, treatment, and management under this section count toward meeting any applicable continuing education requirements for each profession.
- (5) A board may, by administrative regulation, specify minimum training and experience that is sufficient to exempt a professional from the training requirements in subsection (2) of this section.
- (6) (a) The cabinet shall develop a model list of training programs in suicide assessment, treatment, and management.
- (b) When developing the model list, the cabinet shall:
1. Consider suicide assessment, treatment, and management training programs of at least six (6) hours in length listed on the best practices registry of the American Foundation for Suicide Prevention and the Suicide Prevention Resource Center; and
 2. Consult with the boards, public and private institutions of higher education, experts in suicide assessment, treatment, and management, and affected professional associations.
- (c) The cabinet shall report the model list of training programs to the Interim Joint Committee on Health and Welfare no later than December 15, 2014.
- (7) Nothing in this section may be interpreted to expand or limit the scope of practice of any profession regulated under KRS Title XXVI.
- (8) The cabinet and the boards affected by this section shall adopt any administrative

regulations necessary to implement this section.

➔Section 145. KRS 212.345 is amended to read as follows:

Before any person in the Commonwealth may have a nontherapeutic sterilization performed upon himself, he shall give written informed consent to the performance of the sterilization. To be valid such consent document shall be endorsed by the following persons in the following instances:

- (1) By the consenting individual in all cases; or
- (2) By the adult parent or guardian of the consenting individual if such be a minor child *who has not entered into matrimony*~~[and unmarried]~~.

➔Section 146. KRS 213.011 is amended to read as follows:

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

- (1) "Cabinet" means the Cabinet for Health and Family Services;
- (2) "Dead body" means a human body or parts of the human body from the condition of which it reasonably may be concluded that death recently occurred;
- (3) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. This definition shall exclude induced termination of pregnancy;
- (4) "File" means the presentation of a vital record provided for in this chapter for registration by the Vital Statistics Branch;
- (5) "Final disposition" means the burial, interment, cremation, removal from the Commonwealth, or other authorized disposition of a dead body or fetus;
- (6) "Induced termination of pregnancy" means the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus and which does not result in a live birth. This definition shall exclude management

- of prolonged retention of product of conception following fetal death;
- (7) "Institution" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment or nursing, custodial, or domiciliary care, or to which persons are committed by law;
- (8) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy which, after the expulsion or extraction, breathes, or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;
- (9) "Provisional death certificate" means an interim certificate identifying the deceased and authorizing a funeral director, or person acting as such, to take custody of the body and, except for cremation, to make final disposition;
- (10) "Registration" means the acceptance by the Vital Statistics Branch and the incorporation of vital records provided for in this chapter into its official records;
- (11) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records and the collection of other reports required by this chapter;
- (12) "Secretary" means the secretary for health and family services;
- (13) "Sudden infant death syndrome" means the death of an ostensibly healthy child who is two (2) weeks of age or older but less than three (3) years of age, which occurs suddenly and unexpectedly, with no known or apparent cause, and which remains unexplained after the performance of an autopsy;
- (14) "Vital records" means certificates or reports of birth, death, fetal death, matrimony~~[marriage]~~, dissolution of matrimony~~[marriage]~~, or annulment, and data related thereto;
- (15) "Vital statistics" means the data derived from certificates and reports of birth, death,

fetal death, induced termination of pregnancy, matrimony[marriage], dissolution of matrimony[marriage], and related reports;

- (16) "Certificate" means the certificate of birth, death, fetal death, matrimony[marriage], dissolution of matrimony[marriage], or annulment as required by this chapter;
- (17) "Commission" means the Commission for Children with Special Health Care Needs;
- (18) "Hard of hearing infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels; and
- (19) "Hearing risk certificate" means the certificate that includes questions which identify newborn babies with a higher risk than normal for hearing loss.

➔Section 147. KRS 213.046 is amended to read as follows:

- (1) A certificate of birth for each live birth which occurs in the Commonwealth shall be filed with the local registrar within ten (10) days after such birth and shall be registered if it has been completed and filed in accordance with this section. All certificates shall be typewritten. No certificate shall be held to be complete and correct that does not supply all items of information called for in this section and in KRS 213.051, or satisfactorily account for their omission except as provided in KRS 199.570(3). If a certificate of birth is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.
- (2) When a birth occurs in an institution or en route thereto, the person in charge of the institution or that person's designated representative, shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate as directed in subsection (1) of this section or as otherwise directed by the state registrar within the required ten (10) days. The physician or other person in attendance shall provide the medical information required for the certificate and certify to the fact of birth within ten (10) days after the birth. If the physician or

other person in attendance does not certify to the fact of birth within the ten (10) day period, the person in charge of the institution shall complete and sign the certificate.

(3) When a birth occurs in a hospital or en route thereto to a woman who **has not entered into matrimony**~~[is unmarried]~~, the person in charge of the hospital or that person's designated representative shall immediately before or after the birth of a child, except when the mother or the alleged father is a minor:

- (a) Meet with the mother prior to the release from the hospital;
- (b) Attempt to ascertain whether the father of the child is available in the hospital, and, if so, to meet with him, if possible;
- (c) Provide written materials and oral, audio, or video materials about paternity;
- (d) Provide forms necessary to voluntarily establish paternity;
- (e) Provide a written and an oral, audio, or video description of the rights and responsibilities, the alternatives to, and the legal consequences of acknowledging paternity;
- (f) Provide written materials and information concerning genetic paternity testing;
- (g) Provide an opportunity to speak by telephone or in person with staff who are trained to clarify information and answer questions about paternity establishment;
- (h) If the parents wish to acknowledge paternity, require the voluntary acknowledgment of paternity obtained through the hospital-based program be signed by both parents and be authenticated by a notary public;
- (i) Provide the ~~[unmarried]~~mother **who is not in a matrimonial relationship**, and, if possible, the father, with the affidavit of paternity form;
- (j) Upon both the mother's and father's request, help the mother and father in completing the affidavit of paternity form;
- (k) Upon both the mother's and father's request, transmit the affidavit of paternity

to the local registrar in the county in which the birth occurred; and

- (l) In the event that the mother or the alleged father is a minor, information set forth in this section shall be provided in accordance with Civil Rule 17.03 of the Kentucky Rules of Civil Procedure.

If the mother or the alleged father is a minor, the paternity determination shall be conducted pursuant to KRS Chapter 406.

- (4) The voluntary acknowledgment-of-paternity forms designated by the Vital Statistics Branch shall be the only documents having the same weight and authority as a judgment of paternity.
- (5) The Cabinet for Health and Family Services shall:
 - (a) Provide to all public and private birthing hospitals in the state written materials in accessible formats and audio or video materials concerning paternity establishment forms necessary to voluntarily acknowledge paternity;
 - (b) Provide copies of a written description in accessible formats and an audio or video description of the rights and responsibilities of acknowledging paternity; and
 - (c) Provide staff training, guidance, and written instructions regarding voluntary acknowledgment of paternity as necessary to operate the hospital-based program.
- (6) When a birth occurs outside an institution, the certificate shall be prepared and filed by one (1) of the following in the indicated order of priority:
 - (a) The physician in attendance at or immediately after the birth; or, in the absence of such a person,
 - (b) Any other person in attendance at or immediately after the birth; or, in the absence of such a person,
 - (c) The father, the mother, or in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred or of the

institution to which the child was admitted following the birth.

- (7) No physician, midwife, or other attendant shall refuse to sign or delay the filing of a birth certificate.
- (8) If a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, and the place where the child is first removed shall be considered the place of birth. If a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, but the certificate shall show the actual place of birth insofar as can be determined.
- (9) The following provisions shall apply if the mother had entered into matrimony~~[was married]~~ at the time of either conception or birth or anytime between conception and birth:
 - (a) If there is no dispute as to paternity, the name of the husband shall be entered on the certificate as the father of the child. The surname of the child shall be any name chosen by the parents; however, if the parents are separated or divorced at the time of the child's birth, the choice of surname rests with the parent who has legal custody following birth.
 - (b) If the mother claims that the father of the child is not her husband and the husband agrees to such a claim and the putative father agrees to the statement, a three (3) way affidavit of paternity may be signed by the respective parties and duly notarized. The state registrar of vital statistics shall enter the name of a nonhusband on the birth certificate as the father and the surname of the child shall be any name chosen by the mother.
 - (c) If a question of paternity determination arises which is not resolved under paragraph (b) of this subsection, it shall be settled by the District Court.

- (10) The following provisions shall apply if the mother *had not entered into matrimony*~~[was not married]~~ at the time of either conception or birth or between conception and birth or the *matrimonial*~~[marital]~~ relationship between the mother and her husband has been interrupted for more than ten (10) months prior to the birth of the child:
- (a) The name of the father shall not be entered on the certificate of birth. The state registrar shall upon acknowledgment of paternity by the father and with consent of the mother pursuant to KRS 213.121, enter the father's name on the certificate. The surname of the child shall be any name chosen by the mother and father. If there is no agreement, the child's surname shall be determined by the parent with legal custody of the child.
 - (b) If an affidavit of paternity has been properly completed and the certificate of birth has been filed accordingly, any further modification of the birth certificate regarding the paternity of the child shall require an order from the District Court.
 - (c) In any case in which paternity of a child is determined by a court order, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.
 - (d) In all other cases, the surname of the child shall be any name chosen by the mother.
- (11) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate. In all cases, the maiden name of the gestational mother shall be entered on the certificate.
- (12) Any child whose surname was restricted prior to July 13, 1990, shall be entitled to apply to the state registrar for an amendment of a birth certificate showing as the surname of the child, any surname chosen by the mother or parents as provided under this section.

- (13) The birth certificate of a child born as a result of artificial insemination shall be completed in accordance with the provisions of this section.
- (14) Each birth certificate filed under this section shall include all Social Security numbers that have been issued to the parents of the child.
- (15) Either of the parents of the child, or other informant, shall attest to the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within ten (10) days prescribed in subsection (1) of this section.
- (16) When a birth certificate is filed for any birth that occurred outside an institution, the Cabinet for Health and Family Services shall forward information regarding the need for an auditory screening for an infant and a list of options available for obtaining an auditory screening for an infant. The list shall include the Commission for Children with Special Health Care Needs, local health departments as established in KRS Chapter 212, hospitals offering obstetric services, alternative birthing centers required to provide an auditory screening under KRS 216.2970, audiological assessment and diagnostic centers approved by the Commission for Children with Special Health Care Needs in accordance with KRS 211.647 and licensed audiologists, and shall specify the hearing methods approved by the Commission for Children with Special Health Care Needs in accordance with KRS 216.2970.

➔Section 148. KRS 213.116 is amended to read as follows:

- (1) The cabinet shall perform the collection, indexing, tabulation, and registration of data relating to matrimonies~~[marriages]~~, divorces, and annulments. The secretary shall adopt administrative regulations to carry out the provisions of this section.
- (2) Each county clerk shall on or before the tenth day of each month furnish to the state registrar, from the matrimony~~[marriage]~~ licenses issued and the matrimony~~[marriage]~~ certificates returned to the clerk during the previous month, the information required by the Cabinet for Health and Family Services upon forms

prescribed and furnished by the cabinet. The county clerk shall collect from the applicants for a matrimony~~[marriage]~~ license at the time the license is issued one dollar (\$1), which shall constitute the clerk's fee for forwarding the required information to the state registrar.

- (3) A matrimony~~[marriage]~~ record not filed within the time prescribed by this section may be registered in accordance with administrative regulations adopted by the cabinet.
- (4) In all actions for dissolution of matrimony~~[marriage]~~, the petitioner, or the petitioner's attorney or legal representative, shall file, concurrently with the petition, the information requested on forms prescribed and furnished by the Cabinet for Health and Family Services. By January 1, 2013, these forms shall be available on the cabinet's Web site as a downloadable document that can be completed electronically and printed. The provisions of the information shall be prerequisite to the issuance of a final decree in the matter by the court.
- (5) Each Circuit Court clerk shall, within forty-five (45) days after entry of a final judgment of divorce, absolute or limited, or annulment of matrimony~~[marriage]~~, complete the form prescribed and furnished by the Cabinet for Health and Family Services and forward it to the state registrar.

➔Section 149. KRS 213.121 is amended to read as follows:

- (1) A certificate or report registered under this chapter may be amended only in accordance with this section and administrative regulations adopted by the cabinet to protect the integrity and accuracy of vital records.
- (2) A certificate or report that is amended under this section shall be marked "amended," except as otherwise provided in this section. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the record. The cabinet shall prescribe by administrative regulation the conditions under which additions or minor corrections

may be made to certificates or records within one (1) year after the date of the event without the certificate or record being marked "amended."

- (3) Upon written request of both parents and receipts of a sworn acknowledgment of paternity signed by both parents of a child born to ~~a[an-unmarried]~~ woman **who is not in a matrimonial relationship**, the state registrar shall amend the certificate of birth to show the paternity, if paternity is not already shown on the certificate of birth. The certificate shall not be marked "amended."
- (4) Upon receipt of a certified copy of an order of a court changing the name of a person born in the Commonwealth and upon request of the person or the person's parents, guardian, or legal representative, the state registrar shall amend the certificate of birth to show the new name.
- (5) Upon receipt of a sworn statement by a licensed physician indicating that the gender of an individual born in the Commonwealth has been changed by surgical procedure and a certified copy of an order of a court of competent jurisdiction changing that individual's name, the certificate of birth of the individual shall be amended as prescribed by regulation to reflect the change.

➔Section 150. KRS 213.143 is amended to read as follows:

- (1) Upon application and payment of a thirty-five dollar (\$35) fee, the state registrar shall issue a commemorative copy of a certificate of birth or a certificate of **matrimony**~~[marriage]~~. Fees collected under this section that exceed the administrative costs of this program shall be deposited in a trust and agency account for the Emergency Medical Services for Children Program as provided under KRS 311A.045.
- (2) To assist with offsetting the cost of the initial design and printing of the commemorative certificates of birth and commemorative certificates of **matrimony**~~[marriage]~~, the state registrar shall not be required to issue commemorative certificates of birth or commemorative certificates of

matrimony~~[marriage]~~ until application and payment have been made for a total of two hundred fifty (250) commemorative certificates under subsection (1) of this section. The cabinet shall place each thirty-five dollar fee (\$35) received for the commemorative certificates into a trust and agency account and dedicate those funds to offset the cabinet's design and administrative costs. After the issuance of the first two hundred fifty (250) commemorative certificates, the state registrar shall issue each subsequent commemorative certificate in a timely manner upon receipt of each application and payment and shall not permit subsequent requests to accumulate. If the cabinet has not received two hundred fifty (250) applications accompanied by the thirty-five dollar (\$35) fee within one (1) year of June 24, 2003, the cabinet shall refund all fees received for the commemorative certificates to the appropriate applicants.

➔Section 151. KRS 213.151 is amended to read as follows:

Any person having knowledge of the facts necessary to complete a vital record shall furnish the information that person possesses regarding any birth, death, fetal death, induced termination of pregnancy, matrimony~~[marriage]~~, or dissolution of matrimony~~[marriage]~~ or annulment upon request of the cabinet.

➔Section 152. KRS 213.156 is amended to read as follows:

The provisions of this chapter shall apply to all certificates of birth, death, matrimony~~[marriage]~~, divorce, fetal death and induced termination of pregnancy previously received by the Vital Statistics Branch and in the custody of the state registrar or any local registrar.

➔Section 153. KRS 214.185 is amended to read as follows:

(1) Any physician, upon consultation by a minor as a patient, with the consent of such minor may make a diagnostic examination for venereal disease, pregnancy, alcohol or other drug abuse or addiction and may advise, prescribe for, and treat such minor regarding venereal disease, alcohol and other drug abuse or addiction,

contraception, pregnancy, or childbirth, all without the consent of or notification to the parent, parents, or guardian of such minor patient, or to any other person having custody of such minor patient. Treatment under this section does not include inducing of an abortion or performance of a sterilization operation. In any such case, the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions.

- (2) Any physician may provide outpatient mental health counseling to any child age sixteen (16) or older upon request of such child without the consent of a parent, parents, or guardian of such child.
- (3) Notwithstanding any other provision of the law, and without limiting cases in which consent may be otherwise obtained or is not required, any emancipated minor or any minor who has contracted a lawful matrimony~~[marriage]~~ or borne a child may give consent to the furnishing of hospital, medical, dental, or surgical care to his or her child or himself or herself and such consent shall not be subject to disaffirmance because of minority. The consent of the parent or parents of such~~[-married-or-emancipated]~~ minor shall not be necessary in order to authorize such care. For the purpose of this section only, a subsequent judgment of annulment of matrimony~~[marriage]~~ or judgment of divorce shall not deprive the minor of his adult status once obtained. The provider of care may look only to the minor or spouse for payment for services under this section unless other persons specifically agree to assume the cost.
- (4) Medical, dental, and other health services may be rendered to minors of any age without the consent of a parent or legal guardian when, in the professional's judgment, the risk to the minor's life or health is of such a nature that treatment should be given without delay and the requirement of consent would result in delay or denial of treatment.

- (5) The consent of a minor who represents that he may give effective consent for the purpose of receiving medical, dental, or other health services but who may not in fact do so, shall be deemed effective without the consent of the minor's parent or legal guardian, if the person rendering the service relied in good faith upon the representations of the minor.
- (6) The professional may inform the parent or legal guardian of the minor patient of any treatment given or needed where, in the judgment of the professional, informing the parent or guardian would benefit the health of the minor patient.
- (7) Except as otherwise provided in this section, parents, the Cabinet for Health and Family Services, or any other custodian or guardian of a minor shall not be financially responsible for services rendered under this section unless they are essential for the preservation of the health of the minor.

➔Section 154. KRS 216.515 is amended to read as follows:

Every resident in a long-term-care facility shall have at least the following rights:

- (1) Before admission to a long-term-care facility, the resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member or his guardian, of all services available at the long-term-care facility. Every long-term-care facility shall keep the original document of each written acknowledgment in the resident's personal file.
- (2) Before admission to a long-term-care facility, the resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member or his guardian, of all resident's responsibilities and rights as defined in this section and KRS 216.520 to 216.530. Every long-term-care facility shall keep the original document of each written acknowledgment in the resident's personal file.

- (3) The resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member, or his guardian, prior to or at the time of admission and quarterly during the resident's stay at the facility, of all service charges for which the resident or his responsible family member or his guardian is responsible for paying. The resident and the responsible party or his responsible family member or his guardian shall have the right to file complaints concerning charges which they deem unjustified to appropriate local and state consumer protection agencies. Every long-term-care facility shall keep the original document of each written acknowledgment in the resident's personal file.
- (4) The resident shall be transferred or discharged only for medical reasons, or his own welfare, or that of the other residents, or for nonpayment, except where prohibited by law or administrative regulation. Reasonable notice of such action shall be given to the resident and the responsible party or his responsible family member or his guardian.
- (5) All residents shall be encouraged and assisted throughout their periods of stay in long-term care facilities to exercise their rights as a resident and a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of their choice, free from restraint, interference, coercion, discrimination, or reprisal.
- (6) All residents shall be free from mental and physical abuse, and free from chemical and physical restraints except in emergencies or except as thoroughly justified in writing by a physician for a specified and limited period of time and documented in the resident's medical record.
- (7) All residents shall have confidential treatment of their medical and personal records. Each resident or his responsible family member or his guardian shall approve or

refuse the release of such records to any individuals outside the facility, except as otherwise specified by statute or administrative regulation.

- (8) Each resident may manage the use of his personal funds. If the facility accepts the responsibility for managing the resident's personal funds as evidenced by the facility's written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include each facility giving quarterly itemized statements to the resident and the responsible party or his responsible family member or his guardian which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The facility shall return to the resident his valuables, personal possessions, and any unused balance of moneys from his account at the time of his transfer or discharge from the facility. In case of death or for valid reasons when he is transferred or discharged the resident's valuables, personal possessions, and funds that the facility is not liable for shall be promptly returned to the resident's responsible party or family member, or his guardian, or his executor.
- (9) If a resident *has entered into matrimony*~~[is married]~~, privacy shall be assured for the spouse's visits and if they are both residents in the facility, they may share the same room unless they are in different levels of care or unless medically contraindicated and documented by a physician in the resident's medical record.
- (10) Residents shall not be required to perform services for the facility that are not included for therapeutic purposes in their plan of care.
- (11) Residents may associate and communicate privately with persons of their choice and send and receive personal mail unopened.
- (12) Residents may retain the use of their personal clothing unless it would infringe upon the rights of others.
- (13) No responsible resident shall be detained against his will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish unless

- a legitimate reason can be shown and documented for refusing such activity.
- (14) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.
 - (15) Residents shall be assured of at least visual privacy in multibed rooms and in tub, shower, and toilet rooms.
 - (16) The resident and the responsible party or his responsible family member or his guardian shall be permitted the choice of a physician.
 - (17) If the resident is adjudicated mentally disabled in accordance with state law, the resident's guardian shall act on the resident's behalf in order that his rights be implemented.
 - (18) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs.
 - (19) Every resident and the responsible party or his responsible family member or his guardian has the right to be fully informed of the resident's medical condition unless medically contraindicated and documented by a physician in the resident's medical record.
 - (20) Residents have the right to be suitably dressed at all times and given assistance when needed in maintaining body hygiene and good grooming.
 - (21) Residents shall have access to a telephone at a convenient location within the facility for making and receiving telephone calls.
 - (22) The resident's responsible party or family member or his guardian shall be notified immediately of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident.
 - (23) Residents have the right to have private meetings with the appropriate long-term care facility inspectors from the Cabinet for Health and Family Services.
 - (24) Each resident and the responsible party or his responsible family member or his

guardian has the right to have access to all inspection reports on the facility.

- (25) The above-stated rights shall apply in all cases unless medically contraindicated and documented by a physician in writing in the resident's medical record.
- (26) Any resident whose rights as specified in this section are deprived or infringed upon shall have a cause of action against any facility responsible for the violation. The action may be brought by the resident or his guardian. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual and punitive damages for any deprivation or infringement on the rights of a resident. Any plaintiff who prevails in such action against the facility may be entitled to recover reasonable attorney's fees, costs of the action, and damages, unless the court finds the plaintiff has acted in bad faith, with malicious purpose, or that there was a complete absence of justifiable issue of either law or fact. Prevailing defendants may be entitled to recover reasonable attorney's fees. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident and to the cabinet.

➔Section 155. KRS 216.875 is amended to read as follows:

As used in KRS 216.880 to 216.890 the following definitions shall apply:

- (1) "Prescribed pediatric extended care center" hereinafter referred to as a "PPEC center," means any building or other place, whether operated for profit or not, which undertakes through its ownership or management to provide, for a part of the day, basic services to three (3) or more medically dependent or technologically dependent children who are not related to the owner or operator by blood, matrimony~~[marriage]~~, or adoption and who require such services;
- (2) "Basic services" include, but are not limited to, development, implementation, and monitoring of a comprehensive protocol of care, developed in conjunction with the parent or guardian, which specifies the medical, nursing, psychosocial, and developmental therapies required by the medically dependent or technologically

dependent child served as well as the caregiver training needs of the child's legal guardian;

- (3) "Cabinet" means the Cabinet for Health and Family Services;
- (4) "Owner or operator" means any individual who has general administrative charge of a PPEC center;
- (5) "Medical records" means medical records maintained in accordance with accepted professional standards and practices as specified in the administrative regulations;
- (6) "Medically dependent or technologically dependent child" means a child who because of a medical condition requires continuous therapeutic interventions or skilled-nursing supervision which must be prescribed by a licensed physician and administered by, or under the direct supervision of, a licensed registered nurse; and
- (7) "Supportive services or contracted services" include, but are not limited to, speech therapy, occupational therapy, physical therapy, social work, developmental, child life, and psychological services.

➔Section 156. KRS 216B.300 is amended to read as follows:

As used in KRS 216B.300 to 216B.320 and KRS 216B.990(5), unless the context requires otherwise:

- (1) "Cabinet" means the Cabinet for Health and Family Services or its designee. "Designee" means any agency established under KRS Chapter 211 or KRS 147A.050 whose duties related to this chapter shall be set forth in administrative regulation;
- (2) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (3) "Boarder" means a person who does not require supervision or assistance related to medication, activities of daily living, or a supervised plan of care; and
- (4) "Boarding home" means any home, facility, institution, lodging, or other establishment, however named, which accommodates three (3) or more adults not related by blood or ~~matrimony~~~~[marriage]~~ to the owner, operator, or manager, and

which offers or holds itself out to offer room and board on a twenty-four (24) hour basis for hire or compensation. It shall not include any facility which is otherwise licensed and regulated by the cabinet or any hotel as defined in KRS 219.011(3).

➔Section 157. KRS 231.110 is amended to read as follows:

No person who has been granted a permit shall allow:

- (1) Drunken, disorderly, or boisterous persons, or persons of lewd or lascivious reputation to congregate in or about the premises;
- (2) People to congregate there for immoral or unlawful purposes or to permit any man ~~and~~^{or} woman who have not entered into matrimony together~~are not married to each other~~ to occupy any cabin, cottage, or secreted room or place from which the view of the public is excluded;
- (3) The premises to be used as a place of assemblage or entertainment at later hours than those which are stated in the permit or recorded on the order book of the county judge/executive;
- (4) Engaging in fortune-telling at any location except that specifically stated in his permit;
- (5) Engaging in fortune-telling without first posting in a conspicuous place, both inside and outside the premises at which he is authorized to engage in fortune-telling, and without first filing with the county clerk of the county in which the premises are located, a schedule showing in detail the fees charged for readings, predictions, and services of any nature.

➔Section 158. KRS 273A.005 is amended to read as follows:

As used in this chapter:

- (1) "Appropriate court" means the Circuit Court of the county of the Commonwealth in which the unincorporated nonprofit association's principal office is located or, if none, the county in which the registered office is or was last maintained;
- (2) "Established practices" means the practices used by an unincorporated nonprofit

- association without material change during the most recent five (5) years of its existence or, if it has existed for less than five (5) years, during its entire existence;
- (3) "Governing principles" means the agreements, whether oral, in a record, or implied from its established practices, that govern the purpose or operation of an unincorporated nonprofit association and the rights and obligations of its members and manager. The term includes any amendment or restatement of the agreements constituting the governing principles;
- (4) "Manager" means a person that is responsible, whether alone or in concert with others, for the management of an unincorporated nonprofit association;
- (5) "Member" means a person that, under the governing principles, may participate in the selection of persons authorized to manage the affairs of the unincorporated nonprofit association or in the development of the policies and activities of the association;
- (6) "Nonprofit purpose" means any one (1) or more of the following purposes: charitable, benevolent, eleemosynary, educational, civic, patriotic, political, governmental, religious, social, recreational, fraternal, literary, cultural, athletic, scientific, agricultural, horticultural, animal husbandry, and professional, commercial, industrial, or trade association, but shall not include labor unions, cooperative organizations, and organizations subject to any of the provisions of the insurance laws or banking laws of this state which may not be organized under this chapter;
- (7) "Person" means an individual, corporation, business or statutory trust, estate, donative trust, partnership, limited partnership, limited liability company, cooperative, association, limited cooperative association, joint venture, public corporation, government or governmental subdivision, agency, instrumentality, or any other legal or commercial entity;
- (8) "Record" means information that is inscribed on a tangible medium or that is stored

in an electronic or other medium and is retrievable in perceivable form;

- (9) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;
- (10) "Statement of authority" means a statement authorizing a person to transfer an interest in real property held in the name of an unincorporated nonprofit association; and
- (11) "Unincorporated nonprofit association" means an unincorporated organization consisting of two (2) or more members joined under an agreement that is oral, in a record, or implied from conduct, for one (1) or more common, nonprofit purposes. The term does not include:
- (a) A trust;
 - (b) A matrimony, marriage, domestic partnership, common law domestic relationship, civil union, or other domestic living arrangement;
 - (c) An organization formed under any other statute that governs the organization and operation of any person;
 - (d) A joint tenancy, tenancy in common, or tenancy by the entireties even if the co-owners share use of the property for a nonprofit purpose; or
 - (e) A relationship under an agreement in a record that expressly provides that the relationship between the parties does not create an unincorporated nonprofit association.

➔Section 159. KRS 304.14-340 is amended to read as follows:

- (1) Every life insurance policy made payable to or for the benefit of or duly assigned or transferred to a ~~married~~ woman in a matrimonial relationship, or to any person in trust for her, shall inure to her separate use and benefit and that of her children, independently of her husband or his creditors or any other person effecting or transferring the policy, or his creditors.

- (2) A ~~married~~ woman **in a matrimonial relationship** may, without consent of her husband, contract, pay for, take out and hold a policy on the life or health of her husband or children, or against loss by his or their disablement by accident. The premiums paid on the policy shall be held to have been her separate estate, and the policy shall inure to her separate use and benefit and that of her children, free from any claim of her husband or others.
- (3) If the premium on any such policy is paid by any person with intent to defraud his creditors, an amount equal to the premium so paid, with interest thereon, shall inure to the benefit of the creditors, subject to the statute of limitations.

➔Section 160. KRS 304.15-150 is amended to read as follows:

An industrial life insurance policy shall have the name of the beneficiary designated thereon or in the application or other form if attached to the policy, with a reservation of the right to designate or change the beneficiary after the issuance of the policy, unless such beneficiary be irrevocably designated. The policy may also provide that no designation or change of beneficiary shall be binding on the insurer until indorsed on the policy by the insurer, and that the insurer may refuse to indorse the name of any proposed beneficiary who does not appear to the insurer to have an insurable interest in the life of the insured. The policy may also provide that if the beneficiary designated in the policy does not make a claim under the policy or does not surrender the policy with due proof of death within the period stated in the policy, which shall not be less than thirty (30) days after the death of the insured, or if the beneficiary is the estate of the insured, or is a minor, or dies before the insured, or is not legally competent to give a valid release, then the insurer may make any payment thereunder to the executor or administrator of the insured, or to any relative of the insured by blood or legal adoption or connection by **matrimony**~~marriage~~, or to any person appearing to the insurer to be equitably entitled thereto by reason of having been named beneficiary, or by reason of having incurred expense for the maintenance, medical attention or burial of the insured. The policy may

also include a similar provision applicable to any other payment due under the policy.

➔Section 161. KRS 304.16-020 is amended to read as follows:

- (1) No contract of life insurance shall be delivered in this state insuring the lives of more than one (1) individual unless to one (1) of the groups as provided for in KRS 304.16-030 to 304.16-090, inclusive, and unless in compliance with the other provisions of those sections.
- (2) Subsection (1) of this section shall not apply to contracts of life insurance:
 - (a) Insuring only individuals related by matrimony~~[marriage]~~, by blood, or by legal adoption;
 - (b) Insuring only individuals having a common interest through ownership of a business enterprise, or of a substantial legal interest or equity therein, and who are actively engaged in the management thereof; or
 - (c) Insuring only individuals otherwise having an insurable interest in each other's lives.

➔Section 162. KRS 304.16-085 is amended to read as follows:

- (1) Insurance under any group life insurance policy issued pursuant to KRS 304.16-030 (employee groups), KRS 304.16-050 (labor union groups), KRS 304.16-060 (trustee groups), KRS 304.16-070 (public employee groups), KRS 304.16-080 (association groups), and KRS 304.16-115 of this subtitle may be extended to insure the dependents, or any class or classes thereof, of each insured employee or member who so elects in amounts in accordance with a plan which precludes individual selection. A "dependent" includes any of the following:
 - (a) The husband or wife of the insured employee or member;
 - (b) The insured employee's or member's child under eighteen (18) years of age;
 - (c) The insured employee's or member's child age eighteen (18) years or older who is:
 1. Not in a matrimonial relationship~~[Unmarried]~~;

2. Supported either in whole or in part by the insured employee or member;
and
 3. A full-time student at a school, college, university, or other accredited educational institution; or
- (d) A dependent child of an insured employee or other member of an insured group which terminates coverage at a specified age, who is *not in a matrimonial relationship*~~[unmarried]~~ and incapable of self-sustaining employment because of a mental or physical condition, if:
1. The child was incapacitated prior to attainment of the age at which dependent coverage would otherwise terminate;
 2. The child is chiefly dependent upon the employee or member for support and maintenance;
 3. The insurance of the employee or member remains in force;
 4. The dependent child remains incapable of self-sustaining employment;
and
 5. The insured employee or member submits proof of the dependent child's incapacity within thirty-one (31) days of the dependent's attainment of the termination age.
- (2) Premiums for the insurance on the dependents may be paid by the group policyholder, or by the employee or member or by the group policyholder and the employee or member jointly.
- (3) A husband or wife and dependents pursuant to this section shall have the same conversion right as to the insurance on his or her life as is vested in the employee or member.
- (4) Notwithstanding the provisions of KRS 304.16-180 (certificate; filing approval) only one (1) certificate need be issued for each family unit if a statement concerning any dependent's coverage is included in the certificate.

➔Section 163. KRS 304.17-030 is amended to read as follows:

No policy of health insurance shall be delivered or issued for delivery to any person in this state unless it otherwise complies with this title, and complies with the following:

- (1) The entire money and other considerations therefor shall be expressed therein;
- (2) The time when the insurance takes effect and terminates shall be expressed therein;
- (3) It shall purport to insure only one (1) person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family, who shall be deemed the policyholder, any two (2) or more eligible members of that family, including husband, wife, ~~unmarried~~ dependent children **who have not entered into matrimony** to age nineteen (19), ~~unmarried~~ children from nineteen (19) to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution, ~~and~~ who are primarily dependent on the policyholder for maintenance and support, **and who have not entered into matrimony**, and any other person dependent upon the policyholder as provided pursuant to KRS 304.17-310;
- (4) The style, arrangement, and overall appearance of the policy shall give no undue prominence to any portion of the text, and every printed portion of the text of the policy and of any indorsements or attached papers shall be plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten (10) point with a lower case unspaced alphabet length not less than one hundred and twenty (120) point (the "text" shall include all printed matter except the name and address of the insurer, name on title of the policy, the brief description, if any, and captions and subcaptions);
- (5) The exceptions and reductions of indemnity shall be set forth in the policy and other than those contained in KRS 304.17-050 to 304.17-290, inclusive, shall be printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "Exceptions," or "Exceptions and

Reductions," except that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of the exception or reduction shall be included with the benefit provision to which it applies;

- (6) Each form, including riders and indorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and
- (7) The policy shall contain no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless the portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner.

➔Section 164. KRS 304.17-130 is amended to read as follows:

- (1) There shall be a provision as follows:

"Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting payment which may be prescribed herein and effective at the time of payment. If no designation or provision is then effective, any indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to a beneficiary or to the estate. All other indemnities will be payable to the insured."

- (2) The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

- (a) "If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$.... (insert an amount which shall not exceed \$5,000), to any relative by blood or connection by matrimony~~[marriage]~~ of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any

payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of the payment."

- (b) "Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of the loss, be paid directly to the hospital or person rendering services; but it is not required that the service be rendered by a particular hospital or person."

➔Section 165. KRS 304.17-310 is amended to read as follows:

- (1) Family expense health insurance is that provided under a policy issued to one (1) of the family members insured, who shall be deemed the policyholder, covering any two (2) or more eligible members of a family, including husband, wife, ~~unmarried~~ dependent children who have not entered into matrimony~~;~~ to age nineteen (19), ~~unmarried~~ children from nineteen (19) to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution,~~;~~ ~~and~~ who are primarily dependent on the policyholder for maintenance and support, and who have not entered into matrimony, and any other person dependent upon the policyholder. Any authorized health insurer may issue the insurance.
- (2) An individual hospital or medical expense insurance policy or hospital or medical service plan contract delivered or issued for delivery in this state more than 120 days after June 13, 1968, which provides that coverage of a dependent child shall terminate upon attainment of the limiting age for dependent children specified in the policy or contract shall also provide in substance that attainment of the limiting age shall not operate to terminate the coverage of the child while the child is and continues to be both (a) incapable of self-sustaining employment by reason of an intellectual or physical disability and (b) chiefly dependent upon the policyholder or

subscriber for support and maintenance, provided proof of the incapacity and dependency is furnished to the insurer or corporation by the policyholder or subscriber within thirty-one (31) days of the child's attainment of the limiting age and subsequently as may be required by the insurer or corporation but not more frequently than annually after the two (2) year period following the child's attainment of the limiting age.

- (3) Insurers offering family expense health insurance shall offer the applicant the option to purchase coverage for ~~unmarried~~ dependent children **who have not entered into matrimony** until age twenty-five (25).

➔Section 166. KRS 304.17A-220 is amended to read as follows:

- (1) All group health plans and insurers offering group health insurance coverage in the Commonwealth shall comply with the provisions of this section.
- (2) Subject to subsection (8) of this section, a group health plan, and a health insurance insurer offering group health insurance coverage, may, with respect to a participant or beneficiary, impose a pre-existing condition exclusion only if:
- (a) The exclusion relates to a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the six (6) month period ending on the enrollment date. For purposes of this paragraph:
1. Medical advice, diagnosis, care, or treatment is taken into account only if it is recommended by, or received from, an individual licensed or similarly authorized to provide such services under state law and operating within the scope of practice authorized by state law; and
 2. The six (6) month period ending on the enrollment date begins on the six (6) month anniversary date preceding the enrollment date;
- (b) The exclusion extends for a period of not more than twelve (12) months, or eighteen (18) months in the case of a late enrollee, after the enrollment date;

- (c)
 - 1. The period of any pre-existing condition exclusion that would otherwise apply to an individual is reduced by the number of days of creditable coverage the individual has as of the enrollment date, as counted under subsection (3) of this section; and
 - 2. Except for ineligible individuals who apply for coverage in the individual market, the period of any pre-existing condition exclusion that would otherwise apply to an individual may be reduced by the number of days of creditable coverage the individual has as of the effective date of coverage under the policy; and
 - (d) A written notice of the pre-existing condition exclusion is provided to participants under the plan, and the insurer cannot impose a pre-existing condition exclusion with respect to a participant or a dependent of the participant until such notice is provided.
- (3) In reducing the pre-existing condition exclusion period that applies to an individual, the amount of creditable coverage is determined by counting all the days on which the individual has one (1) or more types of creditable coverage. For purposes of counting creditable coverage:
- (a) If on a particular day the individual has creditable coverage from more than one (1) source, all the creditable coverage on that day is counted as one (1) day;
 - (b) Any days in a waiting period for coverage are not creditable coverage;
 - (c) Days of creditable coverage that occur before a significant break in coverage are not required to be counted; and
 - (d) Days in a waiting period and days in an affiliation period are not taken into account in determining whether a significant break in coverage has occurred.
- (4) An insurer may determine the amount of creditable coverage in another manner than established in subsection (3) of this section that is at least as favorable to the

individual as the method established in subsection (3) of this section.

- (5) If an insurer receives creditable coverage information, the insurer shall make a determination regarding the amount of the individual's creditable coverage and the length of any pre-existing exclusion period that remains. A written notice of the length of the pre-existing condition exclusion period that remains after offsetting for prior creditable coverage shall be issued by the insurer. An insurer may not impose any limit on the amount of time that an individual has to present a certificate or evidence of creditable coverage.
- (6) For purposes of this section:
 - (a) "Pre-existing condition exclusion" means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the effective date of coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that day. A pre-existing condition exclusion includes any exclusion applicable to an individual as a result of information relating to an individual's health status before the individual's effective date of coverage under a health benefit plan;
 - (b) "Enrollment date" means, with respect to an individual covered under a group health plan or health insurance coverage, the first day of coverage or, if there is a waiting period, the first day of the waiting period. If an individual receiving benefits under a group health plan changes benefit packages, or if the employer changes its group health insurer, the individual's enrollment date does not change;
 - (c) "First day of coverage" means, in the case of an individual covered for benefits under a group health plan, the first day of coverage under the plan and, in the case of an individual covered by health insurance coverage in the individual market, the first day of coverage under the policy or contract;

- (d) "Late enrollee" means an individual whose enrollment in a plan is a late enrollment;
 - (e) "Late enrollment" means enrollment of an individual under a group health plan other than:
 - 1. On the earliest date on which coverage can become effective for the individual under the terms of the plan; or
 - 2. Through special enrollment;
 - (f) "Significant break in coverage" means a period of sixty-three (63) consecutive days during each of which an individual does not have any creditable coverage; and
 - (g) "Waiting period" means the period that must pass before coverage for an employee or dependent who is otherwise eligible to enroll under the terms of a group health plan can become effective. If an employee or dependent enrolls as a late enrollee or special enrollee, any period before such late or special enrollment is not a waiting period. If an individual seeks coverage in the individual market, a waiting period begins on the date the individual submits a substantially complete application for coverage and ends on:
 - 1. If the application results in coverage, the date coverage begins; or
 - 2. If the application does not result in coverage, the date on which the application is denied by the insurer or the date on which the offer of coverage lapses.
- (7) (a) 1. Except as otherwise provided under subsection (3) of this section, for purposes of applying subsection (2)(c) of this section, a group health plan, and a health insurance insurer offering group health insurance coverage, shall count a period of creditable coverage without regard to the specific benefits covered during the period.
2. A group health plan, or a health insurance insurer offering group health

insurance coverage, may elect to apply subsection (2)(c) of this section based on coverage of benefits within each of several classes or categories of benefits specified in federal regulations. This election shall be made on a uniform basis for all participants and beneficiaries. Under this election, a group health plan or insurer shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within this class or category.

3. In the case of an election with respect to a group health plan under subparagraph 2. of this paragraph, whether or not health insurance coverage is provided in connection with the plan, the plan shall:
 - a. Prominently state in any disclosure statements concerning the plan, and state to each enrollee at the time of enrollment under the plan, that the plan has made this election; and
 - b. Include in these statements a description of the effect of this election.
- (b) Periods of creditable coverage with respect to an individual shall be established through presentation of certifications described in subsection (9) of this section or in such other manner as may be specified in administrative regulations.
- (8) (a) Subject to paragraph (e) of this subsection, a group health plan, and a health insurance insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion on a child who, within thirty (30) days after birth, is covered under any creditable coverage. If a child is enrolled in a group health plan or other creditable coverage within thirty (30) days after birth and subsequently enrolls in another group health plan without a significant break in coverage, the other group health plan may not impose any pre-existing condition exclusion on the child.

- (b) Subject to paragraph (e) of this subsection, a group health plan, and a health insurance insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion on a child who is adopted or placed for adoption before attaining eighteen (18) years of age and who, within thirty (30) days after the adoption or placement for adoption, is covered under any creditable coverage. If a child is enrolled in a group health plan or other creditable coverage within thirty (30) days after adoption or placement for adoption and subsequently enrolls in another group health plan without a significant break in coverage, the other group health plan may not impose any pre-existing condition exclusion on the child. This shall not apply to coverage before the date of the adoption or placement for adoption.
 - (c) A group health plan may not impose any pre-existing condition exclusion relating to pregnancy.
 - (d) A group health plan may not impose a pre-existing condition exclusion relating to a condition based solely on genetic information. If an individual is diagnosed with a condition, even if the condition relates to genetic information, the insurer may impose a pre-existing condition exclusion with respect to the condition, subject to other requirements of this section.
 - (e) Paragraphs (a) and (b) of this subsection shall no longer apply to an individual after the end of the first sixty-three (63) day period during all of which the individual was not covered under any creditable coverage.
- (9) (a) 1. A group health plan, and a health insurance insurer offering group health insurance coverage, shall provide a certificate of creditable coverage as described in subparagraph 2. of this subsection. A certificate of creditable coverage shall be provided, without charge, for participants or dependents who are or were covered under a group health plan upon the occurrence of any of the following events:

- a. At the time an individual ceases to be covered under a health benefit plan or otherwise becomes eligible under a COBRA continuation provision;
- b. In the case of an individual becoming covered under a COBRA continuation provision, at the time the individual ceases to be covered under the COBRA continuation provision; and
- c. On request on behalf of an individual made not later than twenty-four (24) months after the date of cessation of the coverage described in subdivision a. or b. of this subparagraph, whichever is later.

The certificate of creditable coverage as described under subdivision a. of this subparagraph may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

2. The certification described in this subparagraph is a written certification of:
 - a. The period of creditable coverage of the individual under the health benefit plan and the coverage, if any, under the COBRA continuation provision; and
 - b. The waiting period, if any, and affiliation period, if applicable, imposed with respect to the individual for any coverage under the plan.
3. To the extent that medical care under a group health plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirement under this paragraph if the health insurance insurer offering the coverage provides for the certification in accordance with this paragraph.

- (b) In the case of an election described in subsection (7)(a)2. of this section by a group health plan or health insurance insurer, if the plan or insurer enrolls an individual for coverage under the plan and the individual provides a certification of coverage of the individual under paragraph (a) of this subsection:
1. Upon request of that plan or insurer, the entity that issued the certification provided by the individual shall promptly disclose to the requesting plan or insurer information on coverage of classes and categories of health benefits available under the entity's plan or coverage; and
 2. The entity may charge the requesting plan or insurer for the reasonable cost of disclosing this information.
- (10) (a) A group health plan, and a health insurance insurer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible but not enrolled for coverage under the terms of the plan, or a dependent of that employee if the dependent is eligible but not enrolled for coverage under these terms, to enroll for coverage under the terms of the plan if each of the following conditions is met:
1. The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent;
 2. The employee stated in writing at that time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or insurer, if applicable, required that statement at that time and provided the employee with notice of the requirement, and the consequences of the requirement, at that time;
 3. The employee's or dependent's coverage described in subparagraph 1. of

this paragraph:

- a. Was under a COBRA continuation provision and the coverage under that provision was exhausted; or
 - b. Was not under such a provision and either the coverage was terminated as a result of loss of eligibility for the coverage, including as a result of legal separation, divorce, cessation of dependent status, such as obtaining the maximum age to be eligible as a dependent child, death of the employee, termination of employment, reduction in the number of hours of employment, employer contributions toward the coverage were terminated, a situation in which an individual incurs a claim that would meet or exceed a lifetime limit on all benefits, or a situation in which a plan no longer offers any benefits to the class of similarly situated individuals that includes the individual; or
 - c. Was offered through a health maintenance organization or other arrangement in the group market that does not provide benefits to individuals who no longer reside, live, or work in a service area and, loss of coverage in the group market occurred because an individual no longer resides, lives, or works in the service area, whether or not within the choice of the individual, and no other benefit package is available to the individual; and
4. An insurer shall allow an employee and dependent a period of at least thirty (30) days after an event described in this paragraph has occurred to request enrollment for the employee or the employee's dependent. Coverage shall begin no later than the first day of the first calendar month beginning after the date the insurer receives the request for special enrollment.

- (b) A dependent of a current employee, including the employee's spouse, and the employee each are eligible for enrollment in the group health plan subject to plan eligibility rules conditioning dependent enrollment on enrollment of the employee if the requirements of paragraph (a) of this subsection are satisfied.
- (c) 1. If:
- a. A group health plan makes coverage available with respect to a dependent of an individual;
 - b. The individual is a participant under the plan, or has met any waiting period applicable to becoming a participant under the plan and is eligible to be enrolled under the plan but for a failure to enroll during a previous enrollment period; and
 - c. A person becomes such a dependent of the individual through matrimony~~marriage~~, birth, or adoption or placement for adoption;
- the group health plan shall provide for a dependent special enrollment period described in subparagraph 2. of this paragraph during which the person or, if not otherwise enrolled, the individual, may be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if the spouse is otherwise eligible for coverage.
2. A dependent special enrollment period under this subparagraph shall be a period of at least thirty (30) days and shall begin on the later of:
- a. The date dependent coverage is made available; or
 - b. The date of the matrimony~~marriage~~, birth, or adoption or placement for adoption, as the case may be, described in subparagraph 1.c. of this paragraph.

3. If an individual seeks to enroll a dependent during the first thirty (30) days of the dependent special enrollment period, the coverage of the dependent shall become effective:
 - a. In the case of matrimony~~[marriage]~~, not later than the first day of the first month beginning after the date the completed request for enrollment is received;
 - b. In the case of a dependent's birth, as of the date of the birth; or
 - c. In the case of a dependent's adoption or placement for adoption, the date of the adoption or placement for adoption.
 - (d) At or before the time an employee is initially offered the opportunity to enroll in a group health plan, the employer shall provide the employee with a notice of special enrollment rights.
- (11) (a) In the case of a group health plan that offers medical care through health insurance coverage offered by a health maintenance organization, the plan may provide for an affiliation period with respect to coverage through the organization only if:
1. No pre-existing condition exclusion is imposed with respect to coverage through the organization;
 2. The period is applied uniformly without regard to any health status-related factors; and
 3. The period does not exceed two (2) months, or three (3) months in the case of a late enrollee.
- (b) 1. For purposes of this section, the term "affiliation period" means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. The organization is not required to provide health care services or benefits during this period and no

premium shall be charged to the participant or beneficiary for any coverage during the period.

2. This period shall begin on the enrollment date.
3. An affiliation period under a plan shall run concurrently with any waiting period under the plan.

(c) A health maintenance organization described in paragraph (a) of this subsection may use alternative methods other than those described in that paragraph to address adverse selection as approved by the commissioner.

➔Section 167. KRS 304.17A-256 is amended to read as follows:

(1) All group health benefit plans which provide dependent benefits shall offer the master policyholder the following two (2) options to purchase coverage for ~~a~~~~an~~ ~~unmarried~~ dependent child **who has not entered into matrimony**:

(a) Coverage until age nineteen (19) and coverage to ~~unmarried~~ children from nineteen (19) to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution, ~~and~~ who are primarily dependent on the policyholder for maintenance and support, **and who have not entered into matrimony**; and

(b) Coverage until age twenty-five (25).

(2) The offer of coverage under paragraph (b) of subsection (1) of this section shall include a disclaimer that selecting either option may have tax implications.

➔Section 168. KRS 304.18-110 is amended to read as follows:

(1) As used in this section:

(a) "Group policy" means group health insurance policies as defined in KRS 304.18-020 and blanket health insurance policies which the commissioner, in his or her discretion, designates as subject to this section, which:

1. Affect the rights of a Kentucky insured and bear a reasonable relation to Kentucky, regardless of whether delivered or issued for delivery in

- Kentucky;
2. Provide hospital or surgical expenses benefits, other than for a specific disease or accidental injury only; and
 3. Are delivered, issued for delivery, or renewed after July 15, 2002;
- (b) "Medicare" means Title XVIII of the United States Social Security Act as amended or superseded.
- (2) Persons insured under group policies have the right upon termination of group membership to continue coverage for themselves and their dependents upon meeting the following conditions:
- (a) The group member has been covered by the group policy or any group policy it replaced for at least three (3) months; and
 - (b) Notice is given to the insurer and payment of the group rate is made to the insurer, by the group member, within thirty-one (31) days after notice pursuant to subsection (7) of this section.
- (3) Continued group health insurance coverage shall terminate on the earlier of:
- (a) The date eighteen (18) months after the date on which the group coverage would otherwise have terminated because of termination of group membership;
 - (b) If the group member fails to make timely payment of premium to the insurance company, the end of the period for which premium payment was made; or
 - (c) The date the group policy is terminated and is not replaced by another group policy within thirty-one (31) days.
- (4) If a group policy is replaced, by a succeeding insurer, persons under the continued group health insurance shall remain covered under the prior insurer's policy until it terminates in accordance with subsection (3) of this section.
- (5) The right to continue group health insurance coverage shall also be available:

- (a) To the surviving spouse, at the death of the group member, with respect to the spouse and such children whose coverage under the group policy would terminate or terminates by reason of the death of the group member;
 - (b) To a child solely with respect to himself or herself upon termination of membership in the group or his or her coverage by reason of operation of the limiting age of coverage under the group policy while covered as a dependent thereunder; or
 - (c) To a former spouse for himself or herself and such children of whom he or she is awarded custody when coverage under the group policy would terminate or terminates by reason of termination of dependency as defined in the group policy and resulting from an order dissolving the matrimony~~[marriage]~~ entered by a court of competent jurisdiction.
- (6) Continuation of group health insurance coverage need not be granted in the following situations:
- (a) On the effective date of coverage, the applicant is or could be covered by Medicare;
 - (b) On the effective date of coverage, the applicant is or could be covered by another group coverage (insured or uninsured).
- (7) Notice of the right to continue group health insurance coverage shall be given as follows:
- (a) For group policies delivered, issued for delivery, or renewed after July 15, 2002, the insurer shall give written notice of the right to continue group health insurance coverage to any group member entitled to continue coverage under this section upon notice from the group policyholder that the group member has terminated membership in the group. The thirty-one (31) day period of subsection (2)(b) of this section shall not begin to run until the notice required by this paragraph is mailed or delivered to the last known address of the group

member;

- (b) If a group member becomes entitled to obtain continued health insurance coverage, pursuant to this section, and the insurer fails to give the group member written notice of the right, pursuant to this subsection, the insurer shall give written notice to the former group member as soon as practicable after being notified of the insurer's failure to give written notice of continuation rights to the group member and such group member shall have an additional period within which to exercise continuation or conversion rights. The additional period shall expire sixty (60) days after written notice is received from the insurer. Written notice delivered or mailed to the last known address of the group member shall constitute the giving of notice for the purpose of this paragraph. If a group member makes application and pays the premium for continued health insurance coverage within the additional period allowed by this paragraph, the effective date of continued health insurance coverage shall be the date of termination from the group. However, nothing in this subsection shall require an insurer to give notice or provide continuation coverage to a former group member ninety (90) days after termination of the former group member's group coverage.

➔Section 169. KRS 304.9-310 is amended to read as follows:

- (1) The temporary license may cover only the same kinds of insurance for which the agent thereby being replaced was licensed.
- (2) The temporary licensee may represent under the license all insurers last represented by the replaced agent, and without the necessity of new appointments of the licensee; but the licensee shall not be appointed as to any additional insurer of additional kind of insurance under a temporary license. This provision shall not be deemed to prohibit termination of its appointment by any insurer.
- (3) A temporary license shall have the same license powers and duties as under a

permanent license but shall not be obtained for the sole production of controlled business as defined in KRS 304.9-100, and no sale of insurance of any kind shall be made upon the licensee's own life or the lives of any relative by blood or matrimony~~[marriage]~~.

➔Section 170. KRS 309.0805 is amended to read as follows:

- (1) No person shall use the title "licensed clinical alcohol and drug counselor," "licensed clinical alcohol and drug counselor associate," "certified alcohol and drug counselor," or "registered alcohol and drug peer support specialist," or hold himself or herself out as a "licensed clinical alcohol and drug counselor," "licensed clinical alcohol and drug counselor associate," "certified alcohol and drug counselor," or "registered alcohol and drug peer support specialist" unless he or she is licensed, certified, or registered pursuant to KRS 309.080 to 309.089.
- (2) Nothing in KRS 309.080 to 309.089 shall apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including but not limited to physicians, social workers, psychologists, matrimony~~[marriage]~~ and family therapists, art therapists, nurses, or students in accredited training programs in those professions, and nothing in KRS 309.080 to 309.089 shall be construed to limit, interfere with, or restrict the practice, descriptions of services, or manner in which they hold themselves out to the public.
- (3) Nothing in KRS 309.080 to 309.089 shall be construed to alter, amend, or interfere with the practice of those who render counseling services, including but not limited to employment counseling, job placement counseling, vocational rehabilitation counseling, pastoral counseling based on any tenet of one's religious beliefs, or school counseling.
- (4) Nothing in KRS 309.080 to 309.089 shall apply to the activities and services of a student intern or trainee who is pursuing a program of studies in alcohol and drug counseling at an accredited institution of higher education, if these activities are

performed under the supervision or direction of an approved supervisor and the activities are part of the supervised program of studies.

➔Section 171. KRS 311.732 is amended to read as follows:

- (1) For purposes of this section the following definitions shall apply:
 - (a) "Minor" means any person under the age of eighteen (18);
 - (b) "Emancipated minor" means any minor who is or has entered into matrimony~~been married~~ or has by court order or otherwise been freed from the care, custody, and control of her parents; and
 - (c) "Abortion" means the use of any instrument, medicine, drug, or any other substance or device with intent to terminate the pregnancy of a woman known to be pregnant with intent other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.
- (2) No person shall perform an abortion upon a minor unless:
 - (a) The attending physician or his agent secured the informed written consent of the minor and one (1) parent or legal guardian;
 - (b) The minor is emancipated and the attending physician or his agent has received the informed written consent of the minor; or
 - (c) The minor elects to petition any Circuit or District Court of the Commonwealth pursuant to subsection (3) of this section and obtain an order pursuant to subsection (4) of this section granting consent to the abortion and the attending physician or his agent has received the informed written consent of the minor.
- (3) Every minor shall have the right to petition any Circuit or District Court of the Commonwealth for an order granting the right to self-consent to an abortion pursuant to the following procedures:
 - (a) The minor or her next friend may prepare and file a petition setting forth the

- request of the minor for an order of consent to an abortion;
- (b) The court shall insure that the minor prepares or her next friend is given assistance in preparing and filing the petition and shall insure that the minor's identity is kept anonymous;
 - (c) The minor may participate in proceedings in the court on her own behalf or through her next friend and the court shall appoint a guardian ad litem for her. The court shall advise her that she has a right to court-appointed counsel and shall provide her with such counsel upon her request;
 - (d) All proceedings under this section shall be anonymous and shall be given preference over other matters to insure that the court may reach a decision promptly, but in no case shall the court fail to rule within seventy-two (72) hours of the time of application, provided that the seventy-two (72) hour limitation may be extended at the request of the minor; and
 - (e) The court shall hold a hearing on the merits of the petition before reaching a decision. The court shall hear evidence at the hearing relating to the emotional development, maturity, intellect, and understanding of the minor; the nature, possible consequences, and alternatives to the abortion; and any other evidence that the court may find useful in determining whether the minor should be granted majority rights for the purpose of consenting to the abortion or whether the abortion is in the best interest of the minor.
- (4) The court shall enter a written order, making specific factual findings and legal conclusions supporting its decision as follows:
- (a) Granting the petition for an abortion if the court finds that the minor is mature and well informed enough to make the abortion decision on her own;
 - (b) Granting consent to the abortion if the court finds that the performance of the abortion would be in the minor's best interest; or
 - (c) Deny the petition, if the court finds that the minor is immature and that

performance of the abortion would not be in the minor's best interest.

- (5) Any minor shall have the right of anonymous and expedited appeal to the Court of Appeals, and that court shall give precedence over other pending matters.
- (6) No fees shall be required of any minor who declares she has no sufficient funds to pursue the procedures provided by this section.
- (7) The Supreme Court is respectfully requested to promulgate any rules and regulations it feels are necessary to ensure that proceedings under this section are handled in an expeditious and anonymous manner.
- (8) The requirements of subsections (2), (3), and (4) of this section shall not apply when, in the best medical judgment of the physician based on the facts of the case before him, a medical emergency exists that so complicates the pregnancy as to require an immediate abortion. A physician who does not comply with subsection (2), (3), or (4) of this section due to the utilization of this exception shall certify in writing the medical indications upon which his judgment was based.
- (9) A report indicating the basis for any medical judgment that warrants failure to obtain consent pursuant to this section shall be filed with the Cabinet for Health and Family Services on a form supplied by the cabinet. This report shall be confidential.
- (10) Failure to obtain consent pursuant to the requirements of this section is prima facie evidence of failure to obtain informed consent and of interference with family relations in appropriate civil actions. The law of this state shall not be construed to preclude the award of exemplary damages in any appropriate civil action relevant to violations of this section. Nothing in this section shall be construed to limit the common-law rights of parents.

➔Section 172. KRS 311.735 is amended to read as follows:

- (1) Prior to performing an abortion, the physician who is to perform the abortion or his agent shall notify, if reasonably possible, the spouse of the woman upon whom the abortion is to be performed. If it is not reasonably possible to notify the spouse prior

to the abortion, the physician or his agent shall do so, if reasonably possible, within thirty (30) days of the abortion.

- (2) (a) The requirements of this section shall not apply if, before the abortion is performed, either party to a matrimony~~[marriage]~~ has filed a petition for dissolution of matrimony~~[marriage]~~ which has been served on the respondent;
- (b) The requirements of this section shall not apply when, in the medical judgment of the attending physician based on the particular facts of the case before him, there exists a medical emergency. In such a case, the physician shall describe the basis of his medical judgment that such an emergency exists on a form prescribed by the cabinet as required by KRS 213.055, and the physician or his agent shall notify, if reasonably possible, the spouse of the woman upon whom the abortion was performed, within thirty (30) days of the abortion.
- (3) Failure to notify a spouse as required by this section is prima facie evidence of interference with family relations in appropriate civil actions. The law of this Commonwealth shall not be construed to preclude the award of punitive damages or damages for emotional distress, even if unaccompanied by physical complications in any civil action brought pursuant to violations of this section. Nothing in this section shall be construed to limit the common law rights of a husband.

➔Section 173. KRS 311.990 is amended to read as follows:

- (1) Any person who violates KRS 311.250 shall be guilty of a violation.
- (2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.
- (3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS

311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

- (4) Each violation of KRS 311.560 shall constitute a Class D felony.
- (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.
- (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.
- (7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.
- (8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.
- (9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.
- (10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and
(b) Any person who intentionally, knowingly, or recklessly violates the

requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

- (11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.
2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.
3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.
- (b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.
- (c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.
- (12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.
- (13) Any person who negligently releases information or documents which are

confidential under KRS 311.732 is guilty of a Class B misdemeanor.

- (14) Any person who performs an abortion upon a ~~married~~ woman *in a matrimonial relationship*, either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.
- (15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.
- (16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.
- (17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.
- (18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.
- (19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.
- (20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.
- (21) Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.
- (22) Any person who violates KRS 311.905(3) shall be guilty of a violation.
- (23) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.
- (24) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;
- (b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty

of a Class D felony.

- (25) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.
- (26) Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).
- (27) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.
- (28) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).
- (29) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars (\$10,000) or more than fifty thousand dollars (\$50,000).

➔Section 174. KRS 319.015 is amended to read as follows:

Nothing in this chapter shall be construed to limit:

- (1) The activities, services, and use of title on the part of a person in the employ of the federal government;
- (2) Persons from engaging in the teaching of psychology, the conduct of psychological research, the provision of consultation services to organizations or institutions, or the provision of expert testimony, provided that such activities do not involve the delivery or supervision of direct psychological services to individuals or groups;
- (3) Persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes from rendering services consistent with the laws regulating their professional practice and the ethics of their profession. The use of written or

computerized interpretations of any psychological testing or the administration and use of symptomatic and behavioral assessments by a practitioner of the healing arts as defined in KRS 311.271(2), clinical social worker, matrimony~~[marriage]~~ and family therapist, professional art therapist, advanced practice registered nurse, physician, physical therapist, or occupational therapist who uses these interpretations or administers and uses these assessments shall not be limited. They shall not represent themselves to be psychologists or use the term "psychological" in describing their services;

- (4) The activities of a student, intern, or resident in psychology, pursuing a course of study approved by the department of psychology of an educational institution rated acceptable by the board for qualifying training and experience, provided such activities are recognized by transcript as a part of his or her supervised course of study;
- (5) The recognized educational activities of teachers in accredited public and private schools, the authorized duties of guidance counselors who are certified by the Education Professional Standards Board, or the activities of persons using psychological techniques in business and industrial organizations for employment placement, promotion, or job adjustment of their own officers and employees;
- (6) Persons who are credentialed as school psychologists by the Education Professional Standards Board from using the title "school psychologist" and practicing psychology as defined in KRS 319.010, if their practice is restricted to regular employment within a setting under the purview of the Education Professional Standards Board. These individuals shall be employees of the educational institution and not independent contractors providing psychological services to educational institutions;
- (7) A duly ordained minister, priest, rabbi, Christian Science practitioner, or other clergyman from carrying out his or her responsibilities while functioning in a

ministerial capacity within a recognized religious organization serving the spiritual needs of its constituency, if he or she does not hold himself or herself out as a psychologist; or

- (8) Any nonresident temporarily employed in this state from rendering psychological services for not more than thirty (30) days every two (2) years, if he or she holds a valid current license or certificate as a psychologist in his or her home state or country and registers with the board prior to commencing practice in the Commonwealth or if he or she holds a valid current IPC.

➔Section 175. KRS 319B.050 is amended to read as follows:

- (1) Any license issued by the board shall contain the name of the person to whom it is issued, the address of the person, the date and number of the license, and other information the board deems necessary. The address contained on the license shall be the address where all correspondence and renewal forms from the board shall be sent. Any person whose address changes shall, within thirty (30) days after the address change, notify the board of the address change. The most recent address contained in the board's records for each licensee shall be the address deemed sufficient for purposes of service of process.
- (2) Every licensee shall either keep his or her license prominently displayed in the office or place in which the licensee practices or have it stored in a place from which it can be immediately produced upon request of a patient or a representative of the board.
- (3) Any person whose license has been lost or destroyed may apply to the board for a replacement. This application shall be accompanied by an affidavit setting out the facts concerning the loss or destruction of the original license and the payment of a reasonable replacement fee as established by the board in KRS 319B.030(1)(f).
- (4) Any person whose name is changed by matrimony~~[marriage]~~ or court order or who changes employment, home address, or telephone shall notify the board in writing

within thirty (30) days of the change.

➔Section 176. KRS 330.220 is amended to read as follows:

- (1) If real or personal property is offered in lots or parcels in a sale by auction, each lot or parcel shall be the subject of a separate sale. This subsection shall not preclude real or personal property from being offered for bidding individually or in some form or combination.
- (2) Unless otherwise provided in the conditions of sale for auctions regarding horses or any interests therein, a sale by auction is complete when the auctioneer so announces by the fall of the hammer, announcing the item sold, and the successful bidder's identification or in other customary manner. If it becomes immediately apparent at the close of the bidding that the auctioneer and a bid assistant or ringman have acknowledged the same bid from different bidders, the auctioneer may continue the bidding between the disputed bidders. When a bid is made while the auctioneer is in the process of completing the sale by auction, the auctioneer may continue the bidding or declare the real or personal property sold under the bid on which the hammer was falling.
- (3) No auction shall be advertised as "absolute" nor shall any advertising contain the words "absolute auction" or the word "absolute" or words with similar meaning nor shall any licensee offer or sell any real or personal property at absolute auction unless:
 - (a) There are no liens or encumbrances on the real or personal property, except property tax obligations, easements, or restrictions of record, in favor of any person, firm, or corporation other than the seller, or unless each and every holder of each and every lien and encumbrance, by execution of the auction listing contract, or otherwise furnishing to the auctioneer written evidence of a binding commitment therefor, shall have agreed to the unqualified acceptance of the highest bid for the property, without regard to the amount of the highest

bid or the identity of the high bidder; or, alternatively, that a financially responsible person, firm, or corporation, by execution of the auction listing contract or by otherwise furnishing to the auctioneer written evidence of a binding commitment therefor, shall have absolutely guaranteed the forthwith and complete discharge and satisfaction of any and all liens and encumbrances immediately after the sale or at the closing, without regard to the amount of the highest bid received, or the identity of the high bidder; and

- (b) There is the bona fide intention at the time of the advertising and at the time of the auction to transfer ownership of the real or personal property, regardless of the amount of the highest and last bid, to the high bidder, that intent existing without reliance on any agreement that any particular bid or bid level must be made or be reached, below which level the real or personal property would not be transferred to the high bidder; and
 - (c) The auction listing contract contains a binding requirement that the auction be conducted without reserve, and includes an acknowledgment that the seller, or anyone acting upon behalf of the seller, shall not bid at the absolute auction, or otherwise participate in the bidding process.
- (4) Compliance with subsection (3) of this section shall not prohibit:
- (a) A secured party or other lienholder who is not the seller from bidding at an absolute auction, providing that such bidding does not constitute, nor is it tantamount to the direct or indirect establishment or agreement to the establishment of a reserve price on the real or personal property by the seller or by the auctioneer, or by anyone aiding or assisting, or acting upon behalf of, the seller or the auctioneer; or
 - (b) Any individual party to the dissolution of any matrimony~~[marriage]~~, partnership, trust, limited liability company, or corporation from bidding as an individual entity apart from the selling entity, on real or personal property

- being sold at auction pursuant to that dissolution; or
- (c) Any individual party or heir of a deceased person's bona fide estate from bidding as an individual entity, apart from the selling entity, on real or personal property being offered at auction pursuant to that estate settlement; or
 - (d) The inclusion of nonmisleading advertising of certain real or personal property to be sold at "absolute auction" and the nonmisleading advertising of certain real or personal property to be offered at auction with reserve, within the same advertisement, or for sale at the same date and place, providing that advertisement shall make clearly apparent through equal or appropriate emphasis, which real or personal property is being offered by each method.
- (5) Any auction sale is, without requirement of announcement at any time, presumed to be with reserve unless the real or personal property is in explicit terms offered at absolute auction. An auction without reserve means an absolute auction. An auction with reserve means the real or personal property may be offered subject to the seller's confirmation or subject to a certain reserve price. In an auction with reserve, the auctioneer may withdraw the real or personal property at any time until he or she announces completion of the sale. In an absolute auction, after the auctioneer calls for bids on an article, lot, or parcel, that article, lot, or parcel shall not be withdrawn unless no bid is made within a reasonable time. At both reserve auctions and without reserve auctions, the auctioneer may establish reasonable bid increments once an opening bid has been offered.
- (6) (a) The provisions of this chapter shall not prohibit any licensee from bidding on his or her own behalf at any auction sale, whether absolute or with reserve, if his or her option to do so has been fully disclosed, including disclosure to the seller.
 - (b) Except as provided in subsection (4) of this section, the seller may not bid at an absolute auction, nor may anyone bid upon his or her behalf. No licensee

shall knowingly receive a bid by or on behalf of the seller at an absolute auction.

- (c) Bids may be made by the seller, or upon the seller's behalf, at any auction with reserve, provided that full disclosure has clearly been made that liberty for bidding is retained. No licensee shall knowingly receive a bid in the absence of full disclosure. If the auctioneer knowingly receives a bid on the seller's behalf or the seller makes or procures a bid and notice has not been clearly given that liberty for bidding is reserved, the buyer may avoid the sale or take the real or personal property at the price of the last good faith bid prior to the completion of the sale.
 - (d) There shall be no requirement that the reserve be announced when it is attained.
 - (e) Nothing in this subsection shall be construed to alter or diminish the provisions of KRS 330.210.
- (7) (a) At any absolute auction, any advertisement or representation of a minimum or suggested starting bid is prohibited.
- (b) At any reserve auction, any advertisement or representation of a minimum or suggested starting bid is prohibited unless:
1. The minimum or suggested starting bid advertised or represented is sufficient to satisfy the auction listing contract stated reserve or confirmation amount; and
 2. The auction listing contract contains a binding acknowledgment by the seller that permission has been granted for disclosure.

➔Section 177. KRS 335.300 is amended to read as follows:

As used in KRS 335.300 to 335.399, unless the context otherwise requires:

- (1) "Board" means the Kentucky Board of Licensure of ~~Matrimony~~~~[Marriage]~~ and Family Therapists;

- (2) "Licensed matrimony~~[marriage]~~ and family therapist" means a person who has completed all of the requirements set out in KRS 335.330 and who holds a license issued by the board;
- (3) "Matrimony~~[Marriage]~~ and family therapy associate" means a person who has completed all requirements set out in KRS 335.330 and who holds a permit issued by the board to practice matrimony~~[marriage]~~ and family therapy under the conditions set out in KRS 335.332 and the corresponding administrative regulations promulgated by the board; and
- (4) "The practice of matrimony~~[marriage]~~ and family therapy" means the identification and treatment of cognitive, affective, and behavioral conditions related to matrimonial~~[marital]~~ and family dysfunctions that involve the professional application of psychotherapeutic and systems theories and techniques in the delivery of services to individuals, couples, and families. Nothing in this section shall be construed to authorize any licensed matrimony~~[marriage]~~ and family therapist or matrimony~~[marriage]~~ and family therapy associate to administer or interpret psychological tests in accordance with the provisions of KRS Chapter 319.

➔Section 178. KRS 335.305 is amended to read as follows:

- (1) Except as provided in KRS 335.307 and subsection (2) of this section:
 - (a) No person shall use the title "licensed matrimony~~[marriage]~~ and family therapist," "LMFT," or a title which is substantially the same, or hold himself or herself out as having this status, unless licensed by the board.
 - (b) No person shall use the title "matrimony~~[marriage]~~ and family therapy associate" or hold himself or herself out as having this status, unless holding a permit issued by the board.
- (2) The provisions of KRS 335.300 to 335.399 shall not apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including, but not limited to, physicians, social workers, psychologists, art

therapists, and nurses, or students within accredited training programs of these professions. Nothing in KRS 335.300 to 335.399 shall be construed to limit, interfere with, or restrict the practice, descriptions of services, or manner in which these persons hold themselves out to the public.

- (3) Nothing in KRS 335.300 to 335.399 shall be construed to alter, amend, or interfere with the practice of employment counseling, job placement counseling, or school counseling.
- (4) Nothing in KRS 335.300 to 335.399 shall be construed to apply to the activities and services of a student intern or trainee in matrimony~~[marriage]~~ and family therapy who is pursuing a program of studies in matrimony~~[marriage]~~ and family therapy at an accredited institution of higher learning if these activities are performed under the supervision and constitute a part of the supervised program of study, and if the person is designated a counseling intern, a matrimony~~[marriage]~~ and family therapist intern, or student in training.

➔Section 179. KRS 335.307 is amended to read as follows:

Effective January 1, 1999, all persons authorized to use the title "certified marriage and family therapist" shall be entitled to use the title of "licensed matrimony~~[marriage]~~ and family therapist" until the date of their second annual license renewal. ~~[On that date, the licensee shall be required to meet the conditions set forth in KRS 335.340(2).]~~ First-time licensure of a person formerly certified shall be processed as a license renewal under KRS 335.340.

➔Section 180. KRS 335.310 is amended to read as follows:

- (1) There is created the Kentucky Board of Licensure of Matrimony~~[Marriage]~~ and Family Therapists. ~~[Effective January 1, 1999,]~~ It shall be composed of seven (7) members. Six (6) members shall be licensed matrimony~~[marriage]~~ and family therapists. One (1) member shall be a citizen-at-large who is not associated with or financially interested in the practice or business of matrimony~~[marriage]~~ and family

therapy. All members shall be appointed by the Governor from a list of names of qualified persons submitted by any interested parties. The Governor may request the submission of additional names. Each member of the board shall serve for a term of four (4) years.

- (2) All reappointments to the board and vacancies on the board shall be filled by the Governor as described in subsection (1) of this section.
- (3) Each member of the board shall receive one hundred dollars (\$100) per day for each day spent performing official duties as a board member and reimbursement for actual and necessary expenses incurred in carrying out official duties.
- (4) The board shall annually elect a chair, a vice chair, and a secretary-treasurer.
- (5) The board shall hold at least two (2) meetings annually and additional meetings as the board may deem necessary. The additional meetings may be held upon call of the chairperson or upon written request of two (2) board members. Four (4) board members shall constitute a quorum.
- (6) Upon recommendation of the board, the Governor may remove any board member for a poor attendance record, neglect of duty, or malfeasance in office.
- (7) No board member shall serve more than two (2) consecutive full terms. A person who has previously served two (2) consecutive terms may be reappointed to the board if that person has not served in the preceding four (4) years.

➔Section 181. KRS 335.320 is amended to read as follows:

The board shall:

- (1) Administer and enforce the provisions of this chapter and shall evaluate the qualifications of license and permit applicants;
- (2) Approve the examination required of applicants for licensure, provide for the administration and grading of the examination, and provide for other matters relating to licensure in the profession of matrimony~~marriage~~ and family therapy;
- (3) Review the credentials of licensees to determine if they are eligible for license

- renewal and have paid the fee provided for in KRS 335.340;
- (4) License the matrimony~~[marriage]~~ and family therapist applicants who satisfy the experience and educational requirements of KRS 335.330 and have paid the fee provided for in KRS 335.330;
 - (5) Review and approve contracts between matrimony~~[marriage]~~ and family therapy associates and approved supervisors for their supervision of practice during the qualifying term;
 - (6) Issue permits to matrimony~~[marriage]~~ and family therapy associate applicants who satisfy the requirements of KRS 335.332;
 - (7) Adopt a code of ethics for licensed matrimony~~[marriage]~~ and family therapists and matrimony~~[marriage]~~ and family therapy associates;
 - (8) Submit an annual report to the Governor and to the Legislative Research Commission by January 1 of each year, listing all hearings conducted by the board and any decisions rendered; and
 - (9) Promulgate administrative regulations, in accordance with KRS Chapter 13A, to implement the purpose and scope of KRS 335.300 to 335.399.

➔Section 182. KRS 335.325 is amended to read as follows:

The board may:

- (1) Employ needed personnel;
- (2) Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of this chapter;
- (3) Seek injunctive relief in Franklin Circuit Court to stop the unlawful practice of matrimony~~[marriage]~~ and family therapy by unlicensed persons;
- (4) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the functions of this chapter;
- (5) Suspend or revoke licenses or permits or impose supervisory or probationary conditions upon licensees or permit holders, or impose administrative disciplinary

- finer, issue written reprimands or admonishments, or any combination thereof;
- (6) Grant retired or inactive licensure status under conditions set forth by the board by the promulgation of administrative regulations;
 - (7) Enter into reciprocal agreements with boards of matrimony~~[marriage]~~ and family therapy in other states having licensure qualifications and requirements that meet or exceed those provided in this chapter;
 - (8) Organize itself into two (2) panels to separate the functions of inquiry and hearings. Each panel shall have the power to act as either an inquiry or hearing panel. No member serving on the inquiry panel shall serve on the hearing panel for any one particular case. Any final decision of the hearing panel shall be considered as the final decision of the board and the hearing panel may exercise all powers granted to the board pursuant to KRS Chapter 13B; and
 - (9) Utilize mediation as a technique to resolve disciplinary matters.

➔Section 183. KRS 335.330 is amended to read as follows:

An applicant for licensure as a matrimony~~[marriage]~~ and family therapist shall pay the board an initial fee which shall be established by administrative regulation promulgated by the board. The applicant shall show the board that the applicant has:

- (1) Completed a master's or doctoral degree program in matrimony~~[marriage]~~ and family therapy, from a regionally-accredited educational institution, or a master's, post-master's, or doctoral program approved by the Commission on Accreditation for Marriage and Family Therapy Education or any of its successor organizations, or an equivalent course of study as defined by the board by promulgation of administrative regulations.
 - (a) The degree or equivalent course of study shall contain specific coursework on psychopathology and the Diagnostic and Statistical Manual; and
 - (b) In determining equivalency, the board shall use the criteria for marriage and family therapy education and clinical training approved by the United States

Department of Education;

- (2) Completed each of the following:
 - (a) At least two (2) years' experience in the practice of matrimony~~[marriage]~~ and family therapy, acceptable to the board and subsequent to being granted a master's degree; and
 - (b) A minimum of two hundred (200) hours of clinical supervision acceptable to the board and subsequent to being granted a master's degree; and
- (3) Passed a written examination prescribed by the board by promulgation of administrative regulations.

➔Section 184. KRS 335.332 is amended to read as follows:

- (1) A person who fills all of the requirements of KRS 335.330 shall apply to the board for a matrimony~~[marriage]~~ and family therapist associate permit in order to practice and earn the experience required for license application.
- (2) A matrimony~~[marriage]~~ and family therapy associate shall engage in the practice of matrimony~~[marriage]~~ and family therapy while receiving qualifying experience by contracting, in writing, with an approved supervisor, as defined by the board in administrative regulations, who shall assume responsibility for and supervise the matrimony~~[marriage]~~ and family therapy associate's practice as directed by the board by promulgation of administrative regulations. No matrimony~~[marriage]~~ and family therapy associate shall enter into a practice of matrimony~~[marriage]~~ and family therapy until this contract has been approved by the board, and the matrimony~~[marriage]~~ and family therapy associate shall cease the practice of matrimony~~[marriage]~~ and family therapy immediately upon termination of the contract. At the termination of the contract, the matrimony~~[marriage]~~ and family therapy associate shall apply for licensure as a matrimony~~[marriage]~~ and family therapist or request an extension of the contract from the board.
- (3) The fees and all other requirements for a matrimony~~[marriage]~~ and family therapist

associate permit shall be established by the board by promulgation of administrative regulations.

➔Section 185. KRS 335.340 is amended to read as follows:

(1) Licensure issued under KRS 335.330 shall be renewed annually upon payment of a fee to be established by administrative regulation promulgated by the board not to exceed one hundred fifty dollars (\$150).

(2) ~~{On January 1, 1999, all persons authorized to use the title "certified marriage and family therapist" shall be deemed "licensed marriage and family therapists" until the date of their second annual license renewal. As of that date, each formerly certified licensee seeking license renewal shall provide the board with verification of education or experience relating to psychopathology, as determined by administrative regulations promulgated by the board, to include:~~

~~(a) Coursework in psychopathology;~~

~~(b) Supervised experience with a focus on diagnosis; or~~

~~(c) Completion of equivalent continuing education units relating to psychopathology.~~

~~— This subsection shall not apply to license renewals for those persons also licensed or certified by another mental health profession which authorizes diagnosis within its scope of practice.~~

~~(3) —~~A ninety (90) day grace period shall be granted during which time licensees may continue to practice and may renew their licenses upon payment of the renewal fee plus a late renewal fee as promulgated by administrative regulation of the board. Any license not renewed during this period shall expire. The board may reinstate an expired license within three (3) years of its expiration date upon payment of the renewal fee and satisfaction of other requirements.

~~(3)~~~~(4)~~ A suspended license is subject to expiration and termination and shall be renewed as provided in this chapter. Renewal shall not entitle the licensee to engage

in the practice of matrimony~~[marriage]~~ and family therapy until the suspension has ended, or is otherwise removed by the board and the right to practice is restored by the board.

~~(4)~~~~(5)~~ A revoked license is subject to expiration or termination but may not be renewed. If it is reinstated, the licensee shall pay the renewal fee as set forth in subsection (1) of this section.

~~(5)~~~~(6)~~ A person who fails to reinstate his or her license within three (3) years of its termination may not have it renewed, restored, reissued, or reinstated. A person may apply for and obtain a new license by meeting the current requirements of this chapter.

~~(6)~~~~(7)~~ The board shall require that a person applying for renewal or reinstatement of licensure show evidence of completion of continuing education as prescribed by the board by administrative regulations, not to exceed twenty (20) clock hours per renewal period.

➔Section 186. KRS 335.348 is amended to read as follows:

- (1) The board may refuse to issue a license or permit, or may suspend, revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand or admonishment, or any combination thereof regarding any licensee or permit holder upon proof that the licensee or permit holder has:
 - (a) Committed any act of dishonesty or corruption. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant. Conviction includes all instances in which a plea of no contest is the basis of the conviction;
 - (b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;

- (c) Committed any unfair, false, misleading, or deceptive act or practice;
 - (d) Been incompetent or negligent in the practice of matrimony~~[marriage]~~ and family therapy;
 - (e) Violated any state statute or administrative regulation governing the practice of matrimony~~[marriage]~~ and family therapy or any activities undertaken by a matrimony~~[marriage]~~ and family therapist;
 - (f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;
 - (g) Violated the code of ethics as set forth by the board in administrative regulations; or
 - (h) Violated any applicable provision of any federal or state law.
- (2) Five (5) years from the date of a revocation, any person whose license or permit has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license or permit upon a finding that the individual has complied with any terms prescribed by the board and is again able to competently engage in the practice of matrimony~~[marriage]~~ and family therapy.
- (3) If, after an investigation that includes opportunity for the licensee to respond, the board determines that a violation took place but was not of a serious nature, it may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have the response placed in the permanent licensure file. The licensee may alternatively, within thirty (30) days of the receipt, file a request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing under the provisions of KRS Chapter 13B.
- (4) At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the licensee

which effectively deals with the complaint.

- (5) The board may reconsider, modify, or reverse its probation, suspensions, or other disciplinary actions.
- (6) The surrender of a license or permit shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions pursuant to this chapter.

➔Section 187. KRS 335.370 is amended to read as follows:

- (1) The board may enter into an agreement with the Kentucky Association of Marriage and Family Therapists for an impaired matrimony~~[marriage]~~ and family therapist committee to undertake the functions and responsibilities of an impaired matrimony~~[marriage]~~ and family therapist program, as specified in the agreement.

The functions and responsibilities may include any of the following:

- (a) Receiving and evaluating reports of suspected impairment from any source;
 - (b) Intervening in cases of verified impairment; or
 - (c) Referring impaired matrimony~~[marriage]~~ and family therapists to treatment programs.
- (2) Other provisions of law notwithstanding, all board and committee records pertaining to the impaired matrimony~~[marriage]~~ and family therapist program shall be kept confidential. No person in attendance at any meeting of the committee shall be required to testify as to any committee discussions or proceedings.
 - (3) Other provisions of law notwithstanding, no member of the board of the Kentucky Association of Marriage and Family Therapists or the Impaired Marriage and Family Therapist Committee shall be liable for damages to any person for any acts, omissions, or recommendations made in good faith while acting within the scope of responsibilities pursuant to this section.

➔Section 188. KRS 335.380 is amended to read as follows:

- (1) A treating matrimony~~[marriage]~~ and family therapist who provides or facilitates the use of telehealth shall ensure:

- (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conform to applicable federal law.
- (2) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
- (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of matrimony~~[marriage]~~ and family therapy services and in the provision of continuing education.
- (3) For purposes of this section, "telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.

➔Section 189. KRS 335.505 is amended to read as follows:

- (1) No person shall engage in the practice of professional counseling or present in a way as to imply or would reasonably be deemed to imply licensure to practice professional counseling unless the person has first been issued a valid license by the board.
- (2) Subsection (1) of this section shall not apply to any person who is licensed, certified, or registered under any other provisions of the Kentucky Revised Statutes, including, but not limited to, physicians, social workers, psychologists, nurses, professional art therapists, matrimony~~[marriage]~~ and family therapists, or students

in accredited programs in those professions, and shall not restrict their practice, descriptions of services, or the manner in which they hold themselves out to the public.

- (3) Subsection (1) of this section shall not be construed to alter, amend, or interfere with the practice of those who engage in employment counseling, job placement counseling, vocational rehabilitation counseling, victim counseling or advocacy, pastoral counseling based on any tenet of one's religious beliefs, or school counseling.
- (4) Subsection (1) of this section shall not apply to the activities and services of a student intern or trainee in professional counseling who is pursuing a program of studies in counseling at an accredited institution of higher education, if these activities are performed under the supervision or direction of an approved supervisor and the activities are a part of the supervised program of study as reflected in an official transcript, and if the person is designated a professional counselor intern or student in training.
- (5) Nothing in this section shall be construed to limit the activities of a sexual assault counselor, victim advocate, or crisis response team as provided in KRE 506, or a person certified under KRS Chapter 403 to provide court-ordered domestic violence offender treatment services or a person providing services to sexual offenders under KRS 197.400 to 197.440.

➔Section 190. KRS 335.630 is amended to read as follows:

- (1) The provisions of KRS 335.600 to 335.699 shall not apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including, but not limited to, physicians, social workers, psychologists, nurses, matrimony~~[marriage]~~ and family therapists, art therapists, or students within accredited training programs of these professions. Except as provided in subsection (2) of this section, nothing in KRS 335.600 to 335.699 shall be construed to limit,

interfere with, or restrict the practice, descriptions of services, or manner in which these persons hold themselves out to the public.

- (2) No person shall use the title "Kentucky licensed pastoral counselor" or "KLPC," or any title or abbreviation that is substantially the same, or hold himself or herself out as having this status or as a Kentucky licensed pastoral counselor, unless licensed by the board.
- (3) Nothing in KRS 335.600 to 335.699 shall be construed to alter, amend, or interfere with the practice of employment counseling, job placement counseling, or school counseling.
- (4) Nothing in KRS 335.600 to 335.699 shall be construed as regulating or limiting the ministry or services of a minister, including pastoral care and counseling, otherwise authorized by a church, denomination, or faith group to perform the ordinary duties or functions of the clergy.
- (5) Nothing in KRS 335.600 to 335.699 shall be construed to apply to the activities and services of a student or trainee in pastoral counseling who is pursuing a program of studies in pastoral counseling at an accredited institution of higher learning if the activities are performed under supervision and constitute a part of the supervised program of study, and if the person is designated a pastoral counseling intern or student in training.
- (6) The provisions of KRS 335.600 to 335.699 shall not apply to Christian Science practitioners.

➔Section 191. KRS 342.085 is amended to read as follows:

As used in this chapter:

- (1) "Child" includes stepchildren, legally adopted children, posthumous children and recognized children born out of wedlock, but does not include ~~married~~ children **who have entered into matrimony** unless actually dependent;
- (2) "Brother" and "sister" includes stepbrothers, stepsisters and brothers and sisters of

the half blood or by adoption, but excludes ~~married~~ brothers or sisters who have entered into matrimony unless actually dependent;

- (3) "Grandchild" includes children of adopted children or stepchildren, but excludes stepchildren of children or of adopted children and ~~married~~ children who have entered into matrimony;
- (4) "Parent" includes stepparents and parents by adoption; and
- (5) "Adopted" and "adoption" include cases where the persons are legally adopted.

➔Section 192. KRS 342.316 is amended to read as follows:

- (1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease. During any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973, shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator.
- (b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later.
- (2) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to the disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter, except that notice of claim shall be given to the employer as soon as practicable after the employee first

experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise the employee that he or she has contracted the disease, or a diagnosis of the disease is first communicated to him or her, whichever shall first occur.

- (3) The procedure for filing occupational disease claims shall be as follows:
- (a) The application for resolution of claim shall set forth the complete work history of the employee with a concise description of injurious exposure to a specific occupational disease, together with the name and addresses of the employer or employers with the approximate dates of employment. The application shall also include at least one (1) written medical report supporting his or her claim. This medical report shall be made on the basis of clinical or X-ray examination performed in accordance with accepted medical standards and shall contain full and complete statements of all examinations performed and the results thereof. The report shall be made by a duly-licensed physician. The commissioner shall promulgate administrative regulations which prescribe the format of the medical report required by this section and the manner in which the report shall be completed.
1. For coal-related occupational pneumoconiosis claims, each clinical examination shall include a chest X-ray interpretation by a National Institute of Occupational Safety and Health (NIOSH) certified "B" reader. The chest X-ray upon which the report is made shall be filed with the application as well as spirometric tests when pulmonary dysfunction is alleged.
 2. For other compensable occupational pneumoconiosis claims, each clinical examination shall include a chest X-ray examination and appropriate pulmonary function tests.
- (b) To be admissible, medical evidence offered in any proceeding under this

chapter for determining a claim for occupational pneumoconiosis resulting from exposure to coal dust shall comply with accepted medical standards as follows:

1. Chest X-rays shall be of acceptable quality with respect to exposure and development and shall be indelibly labeled with the date of the X-ray and the name and Social Security number of the claimant. Physicians' reports of X-ray interpretations shall: identify the claimant by name and Social Security number; include the date of the X-ray and the date of the report; classify the X-ray interpretation using the latest ILO Classification and be accompanied by a completed copy of the latest ILO Classification report. Only interpretations by National Institute of Occupational Safety and Health (NIOSH) certified "B" readers shall be admissible.
2. Spirometric testing shall be conducted in accordance with the standards recommended in the "Guides to the Evaluation of Permanent Impairment" and the 1978 ATS epidemiology standardization project with the exception that the predicted normal values for lung function shall not be adjusted based upon the race of the subject. The FVC or the FEV1 values shall represent the largest of such values obtained from three (3) acceptable forced expiratory volume maneuvers as corrected to BTPS (body temperature, ambient pressure and saturated with water vapor at these conditions) and the variance between the two (2) largest acceptable FVC values shall be either less than five percent (5%) of the largest FVC value or less than one hundred (100) milliliters, whichever is greater. The variance between the two (2) largest acceptable FEV1 values shall be either less than five percent (5%) of the largest FEV1 value or less than one hundred (100) milliliters, whichever is greater.

Reports of spirometric testing shall include a description by the physician of the procedures utilized in conducting such spirometric testing and a copy of the spirometric chart and tracings from which spirometric values submitted as evidence were taken.

3. The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to effectuate the purposes of this section. The commissioner shall periodically review the applicability of the spirometric test values contained in the "Guides to the Evaluation of Permanent Impairment" and may by administrative regulation substitute other spirometric test values which are found to be more closely representative of the normal pulmonary function of the coal mining population.
4. The procedure for determination of occupational disease claims shall be as follows:
 - a. Immediately upon receipt of an application for resolution of claim, the commissioner shall notify the responsible employer and all other interested parties and shall furnish them with a full and complete copy of the application.
 - b. The commissioner shall assign the claim to an administrative law judge and, except for coal workers' pneumoconiosis claims, shall promptly refer the employee to such physician or medical facility as the commissioner may select for examination. The report from this examination shall be provided to all parties of record. The employee shall not be referred by the commissioner for examination within two (2) years following any prior referral for examination for the same disease.
 - c. Except for coal workers' pneumoconiosis claims, within forty-five

- (45) days following the notice of filing an application for resolution of claim, the employer or carrier shall notify the commissioner and all parties of record of its acceptance or denial of the claim. A denial shall be in writing and shall state the specific basis for the denial. In coal workers' pneumoconiosis claims, the employer's notice of claim denial or acceptance shall be filed within thirty (30) days of the issuance by the commissioner of the notice of the consensus reading unless the consensus is that the miner has not developed coal workers' pneumoconiosis category 1/0 or greater. In the event the consensus procedure is exhausted without consensus being established, the employer's notice of claim denial or acceptance shall be filed within thirty (30) days of the commissioner notification to the administrative law judge that consensus has not been reached.
- d. Within forty-five (45) days of assignment of a coal workers' pneumoconiosis claim to an administrative law judge, the employer shall cause the employee to be examined by a physician of the employer's choice and shall provide to all other parties and file with the commissioner the X-ray interpretation by a "B" reader. The examination of the employee shall include spirometric testing if pulmonary dysfunction is alleged by the employee in the application for resolution of a claim. The commissioner shall determine whether the X-ray interpretations filed by the parties are in consensus.
- e. If the readings are not in consensus, the commissioner shall forward both films, masking information identifying the facility where the X-ray was obtained and the referring physician,

consecutively to three (3) "B" readers selected randomly from a list maintained by the commissioner for interpretation. Each "B" reader shall select the highest quality film and report only the interpretation of that film. The commissioner shall determine if two (2) of the X-ray interpretations filed by the three (3) "B" readers selected randomly are in consensus. If consensus is reached, the commissioner shall forward copies of the report to all parties as well as notice of the consensus reading which shall be considered as evidence. If consensus is not reached, the administrative law judge shall decide the claim on the evidence submitted.

- f. "Consensus" is reached between two (2) chest X-ray interpreters when their classifications meet one (1) of the following criteria: each finds either category A, B, or C progressive massive fibrosis; or findings with regard to simple pneumoconiosis are both in the same major category and within one (1) minor category (ILO category twelve (12) point scale) of each other.
- g. The administrative law judge shall conduct such proceedings as are necessary to resolve the claim and shall have authority to grant or deny any relief, including interlocutory relief, to order additional proof, to conduct a benefit review conference, or to take such other action as may be appropriate to resolve the claim.
- h. Unless a voluntary settlement is reached by the parties, or the parties agree otherwise, the administrative law judge shall issue a written determination within sixty (60) days following a hearing. The written determination shall address all contested issues and shall be enforceable under KRS 342.305.

5. The procedure for appeal from a determination of an administrative law judge shall be as set forth in KRS 342.285.
- (4) (a) The right to compensation under this chapter resulting from an occupational disease shall be forever barred unless a claim is filed with the commissioner within three (3) years after the last injurious exposure to the occupational hazard or after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise the employee that he or she has contracted the disease, whichever shall last occur; and if death results from the occupational disease within that period, unless a claim therefor be filed with the commissioner within three (3) years after the death; but that notice of claim shall be deemed waived in case of disability or death where the employer, or its insurance carrier, voluntarily makes payment therefor, or if the incurrence of the disease or the death of the employee and its cause was known to the employer. However, the right to compensation for any occupational disease shall be forever barred, unless a claim is filed with the commissioner within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease or asbestos-related disease, a claim must be filed within twenty (20) years from the last injurious exposure to the occupational hazard.
 - (b) Income benefits for the disease of pneumoconiosis resulting from exposure to coal dust or death therefrom shall not be payable unless the employee has been exposed to the hazards of such pneumoconiosis in the Commonwealth of Kentucky over a continuous period of not less than two (2) years during the ten (10) years immediately preceding the date of his or her last exposure to such hazard, or for any five (5) of the fifteen (15) years immediately preceding the date of such last exposure.
- (5) The amount of compensation payable for disability due to occupational disease or

for death from the disease, and the time and manner of its payment, shall be as provided for under the general provisions of the Workers' Compensation Act, but:

- (a) In no event shall the payment exceed the amounts that were in effect at the time of the last injurious exposure;
 - (b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later; and
 - (c) In case of death where the employee has been awarded compensation or made timely claim within the period provided for in this section, and an employee has suffered continuous disability to the date of his or her death occurring at any time within twenty (20) years from the date of disability, his or her dependents, if any, shall be awarded compensation for his or her death as provided for under the general provisions of the Workers' Compensation Act and in this section, except as provided in KRS 342.750(6).
- (6) If an autopsy has been performed, no testimony relative thereto shall be admitted unless the employer or its representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.
 - (7) No compensation shall be payable for occupational disease if the employee at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself or herself, in writing, as not having been previously disabled, laid-off, or compensated in damages or otherwise, because of the occupational disease, or failed or omitted truthfully to state to the best of his or her knowledge, in answer to written inquiry made by the employer, the place, duration, and nature of previous employment, or, to the best of his or her knowledge, the previous state of his or her health.
 - (8) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which under the provisions of this

chapter would give right to compensation, arose subsequent to the beginning of the first compensable disability, except only for after-born children of a matrimony~~[marriage]~~ existing at the beginning of such disability.

- (9) Whenever any claimant misconceives his or her remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of the cause, that the claim for injury, disability, or death which was the basis for his or her application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for injury, disability, or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and compensation may be awarded that is warranted by the whole evidence pursuant to the provisions of this chapter. When amendment of this type is submitted, further or additional evidence may be heard when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required by this subsection.
- (10) When an employee has an occupational disease that is covered by this chapter, the employer in whose employment he or she was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier, except as otherwise provided in this chapter.
- (11) (a) Income benefits for coal-related occupational pneumoconiosis shall be paid fifty percent (50%) by the Kentucky coal workers' pneumoconiosis fund as established in KRS 342.1242 and fifty percent (50%) by the employer in

whose employment the employee was last exposed to the hazard of that occupational disease.

- (b) Compensation for all other occupational disease shall be paid by the employer in whose employment the employee was last exposed to the hazards of the occupational disease.
- (12) A concluded claim for benefits by reason of contraction of coal workers' pneumoconiosis in the severance or processing of coal shall bar any subsequent claim for benefits by reason of contraction of coal workers' pneumoconiosis, unless there has occurred in the interim between the conclusion of the first claim and the filing of the second claim at least two (2) years of employment wherein the employee was continuously exposed to the hazards of the disease in the Commonwealth.
- (13) For coal-related occupational pneumoconiosis claims, the consensus procedure shall apply to all claims which have not been assigned to an administrative law judge prior to July 15, 2002. The consensus classification shall be presumed to be the correct classification of the employee's condition unless overcome by clear and convincing evidence. If an administrative law judge finds that the presumption of correctness of the consensus reading has been overcome, the reasons shall be specially stated in the administrative law judge's order.

➔Section 193. KRS 342.730 is amended to read as follows:

- (1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:
 - (a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions

compensable under KRS 342.732 and hearing loss covered in KRS 342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.

- (b) For permanent partial disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by the "Guides to the Evaluation of Permanent Impairment," times the factor set forth in the table that follows:

AMA Impairment	Factor
0 to 5%	0.65
6 to 10%	0.85
11 to 15%	1.00
16 to 20%	1.00
21 to 25%	1.15
26 to 30%	1.35
31 to 35%	1.50
36% and above	1.70

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

- (c) 1. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of

injury, the benefit for permanent partial disability shall be multiplied by three (3) times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments; or

2. If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability shall be determined under paragraph (b) of this subsection for each week during which that employment is sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be two (2) times the amount otherwise payable under paragraph (b) of this subsection. This provision shall not be construed so as to extend the duration of payments.
3. Recognizing that limited education and advancing age impact an employee's post-injury earning capacity, an education and age factor, when applicable, shall be added to the income benefit multiplier set forth in paragraph (c)1. of this subsection. If at the time of injury, the employee had less than eight (8) years of formal education, the multiplier shall be increased by four-tenths (0.4); if the employee had less than twelve (12) years of education or a high school General Educational Development diploma, the multiplier shall be increased by two-tenths (0.2); if the employee was age sixty (60) or older, the multiplier shall be increased by six-tenths (0.6); if the employee was age fifty-five (55) or older, the multiplier shall be increased by four-tenths (0.4); or if the employee was age fifty (50) or older, the multiplier shall be increased by two-tenths (0.2).

4. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of subparagraph 2. of this paragraph.
 - (d) For permanent partial disability, if an employee has a permanent disability rating of fifty percent (50%) or less as a result of a work-related injury, the compensable permanent partial disability period shall be four hundred twenty-five (425) weeks, and if the permanent disability rating is greater than fifty percent (50%), the compensable permanent partial disability period shall be five hundred twenty (520) weeks from the date the impairment or disability exceeding fifty percent (50%) arises. Benefits payable for permanent partial disability shall not exceed ninety-nine percent (99%) of sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed seventy-five percent (75%) of the state average weekly wage, except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred percent (100%) of the state average weekly wage, nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks, notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability.
 - (e) For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter.
- (2) The period of any income benefits payable under this section on account of any

injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

- (3) Subject to the limitations contained in subsection (4) of this section, when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his or her lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his or her death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:
- (a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or
 - (b) If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

- (c) If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or
 - (d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.
 - (e) To the widow or widower upon entry into a subsequent matrimony~~[remarriage]~~, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.
- (4) All income benefits payable pursuant to this chapter shall terminate as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f, or two (2) years after the employee's injury or last exposure, whichever last occurs. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits.
- (5) All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total

disability.

- (6) All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability or sickness and accident plan which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.
- (7) If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable.

➔Section 194. KRS 342.750 is amended to read as follows:

If the injury causes death, income benefits shall be payable in the amount and to or for the benefit of the persons following, subject to the maximum limits specified in subsections (3) and (4) of this section:

- (1) (a) If there is a widow or widower and no children of the deceased, to such widow or widower 50 percent of the average weekly wage of the deceased, during widowhood or widowerhood.
- (b) To the widow or widower, if there is a child or children living with the widow or widower, 45 percent of the average weekly wage of the deceased, or 40 percent, if such child is not or such children are not living with a widow or widower, and in addition thereto, 15 percent for each child. Where there are more than two (2) such children, the indemnity benefits payable on account of such children shall be divided among such children, share and share alike.
- (c) Two (2) years' indemnity benefits in one (1) lump sum shall be payable to a widow or widower upon entry into a subsequent matrimony~~[re-marriage]~~.
- (d) To the children, if there is no widow or widower, 50 percent of such wage for one (1) child, and 15 percent for each additional child, divided among such

children, share and share alike.

- (e) The income benefits payable on account of any child under this section shall cease when he dies, enters into matrimony~~[marries]~~, or reaches the age of eighteen (18), or when a child over such age ceases to be physically or mentally incapable of self-support, or if actually dependent ceases to be actually dependent, or, if enrolled as a full-time student in any accredited educational institution, ceases to be so enrolled or reaches the age of 22. A child who originally qualified as a dependent by virtue of being less than 18 years of age may, upon reaching age 18, continue to qualify if he satisfies the tests of being physically or mentally incapable of self-support, actual dependency, or enrollment in an educational institution.
- (f) To each parent, if actually dependent, 25 percent.
- (g) To the brothers, sisters, grandparents, and grandchildren, if actually dependent, 25 percent to each such dependent. If there should be more than one (1) of such dependents, the total income benefits payable on account of such dependents shall be divided share and share alike.
- (h) The income benefits of each beneficiary under paragraphs (f) and (g) above shall be paid until he, if a parent or grandparent, dies, enters into matrimony~~[marries]~~, or ceases to be actually dependent, or, if a brother, sister, or grandchild, dies, enters into matrimony~~[marries]~~, or reaches the age of eighteen (18) or if over that age ceases to be physically or mentally incapable of self-support, or ceases to be actually dependent.
- (i) A person ceases to be actually dependent when his or her income from all sources exclusive of workers' compensation income benefits is such that, if it had existed at the time as of which the original determination of actual dependency was made, it would not have supported a finding of dependency. In any event, if the present annual income of an actual dependent person

including workers' compensation income benefits at any time exceeds the total annual support received by the person from the deceased employee, the workers' compensation benefits shall be reduced so that the total annual income is no greater than such amount of annual support received from the deceased employee. In all cases, a person found to be actually dependent shall be presumed to be no longer actually dependent three (3) years after each time as of which the person was found to be actually dependent. This presumption may be overcome by proof of continued actual dependency as defined in this subsection, but full payments shall not be suspended during the pendency of any proceeding to determine dependency.

- (2) Upon the cessation of income benefits under this section to or on account of any person, the income benefits of the remaining persons entitled to income benefits for the unexpired part of the period during which their income benefits are payable shall be that which such persons would have received if they had been the only persons entitled to income benefits at the time of the decedent's death.
- (3) For the purposes of this section, the average weekly wage of the employee shall be taken as not more than the average weekly wage of the state as determined in KRS 342.740. In no case shall the aggregate weekly income benefits payable to all beneficiaries under this section exceed the maximum income benefit that was or would have been payable for total disability to the deceased, including benefits to his dependents.
- (4) The maximum weekly income benefits payable for all beneficiaries in case of death shall not exceed 75 percent of the average weekly wage of the deceased as calculated under KRS 342.140, subject to the maximum limits in subsection (3) above. The maximum aggregate limitation shall not operate in case of payment of two (2) years' income benefits to the widow or widower upon entry into a subsequent matrimony~~[remarriage]~~ as provided under paragraph (c) of subsection

- (1) of this section, to prevent the immediate recalculation and payments of benefits to the remaining beneficiaries as provided under subsection (2) of this section, but the weekly income benefits as to such remaining beneficiaries shall not exceed the weekly income benefit that was or would have been payable for total disability to the deceased. The classes of beneficiaries specified in paragraphs (a), (b), and (d) of subsection (1) of this section shall have priority over all other beneficiaries in the apportionment of income benefits. If the provisions of this subsection should prevent payment to other beneficiaries of the income benefits to the full extent otherwise provided for by this section, the gross remaining amount of income benefits payable to such other beneficiaries shall be apportioned by class, proportionate to the interest of each class in the remaining amount. Parents shall be considered to be in one class and those specified in paragraph (f) of subsection (1) in another class.
- (5) All relations of dependency referred to in this section shall mean dependency existing at the time of the accident to the employee or at the time his or her disability from an occupational disease began.
- (6) In addition to other benefits as provided by this chapter, if death occurs within four (4) years of the date of injury as a direct result of a work-related injury, a lump-sum payment of fifty thousand dollars (\$50,000) shall be made to the deceased's estate, from which the cost of burial and cost of transportation of the body to the employee's place of residence shall be paid. Annually, the commissioner shall compute, in accordance with KRS 342.740, the increase or decrease in the state average weekly wage, and consistent therewith, shall adjust the amount of the lump-sum payment due under this subsection for injuries occurring in the succeeding year.
- (7) All benefits awarded pursuant to this section, other than those provided in subsection (6) of this section, shall be subject to the limitations contained in KRS

342.730(4).

➔Section 195. KRS 344.362 is amended to read as follows:

Nothing in KRS 344.360 shall apply to:

- (1) The YMCA, YWCA, and similar type single sex dormitory rental properties, including, but not limited to, those dormitories operated by institutions of higher education;
- (2) A landlord who refused to rent to ~~a[n unmarrie]d~~ couple of opposite sex **who have not entered into matrimony**;
- (3) A landlord who chooses to rent only to men or only to women; provided that the landlord engages in the rental to no more than ten (10) persons or of no more than ten (10) self-contained units in an owner occupied housing accommodation;
- (4) Rooms or rental units where tenants would be required to share common bath or kitchen facilities; and
- (5) To any housing accommodation where it can be demonstrated that gender-based exclusions are necessary for reasons of personal modesty or privacy.

➔Section 196. KRS 355.9-102 is amended to read as follows:

- (1) In this article:
 - (a) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost;
 - (b) 1. "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance:
 - a. For property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of;
 - b. For services rendered or to be rendered;
 - c. For a policy of insurance issued or to be issued;
 - d. For a secondary obligation incurred or to be incurred;
 - e. For energy provided or to be provided;

- f. For the use or hire of a vessel under a charter or other contract;
 - g. Arising out of the use of a credit or charge card or information contained on or for use with the card; or
 - h. As winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state.
- 2. The term includes health-care-insurance receivables.
 - 3. The term does not include:
 - a. Rights to payment evidenced by chattel paper or an instrument;
 - b. Commercial tort claims;
 - c. Deposit accounts;
 - d. Investment property;
 - e. Letter-of-credit rights or letters of credit; or
 - f. Rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card;
- (c) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper;
- (d) "Accounting," except as used in "accounting for," means a record:
- 1. Authenticated by a secured party;
 - 2. Indicating the aggregate unpaid secured obligations as of a date not more than thirty-five (35) days earlier or thirty-five (35) days later than the date of the record; and
 - 3. Identifying the components of the obligations in reasonable detail;
- (e) "Agricultural lien" means an interest in farm products:

1. Which secures payment or performance of an obligation for:
 - a. Goods or services furnished in connection with a debtor's farming operation; or
 - b. Rent on real property leased by a debtor in connection with its farming operation;
 2. Which is created by statute in favor of a person that:
 - a. In the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or
 - b. Leased real property to a debtor in connection with the debtor's farming operation; and
 3. Whose effectiveness does not depend on the person's possession of the personal property;
- (f) "As-extracted collateral" means:
1. Oil, gas, or other minerals that are subject to a security interest that:
 - a. Is created by a debtor having an interest in the minerals before extraction; and
 - b. Attaches to the minerals as extracted; or
 2. Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction;
- (g) "Authenticate" means:
1. To sign; or
 2. With present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process;
- (h) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies;
- (i) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or

the like;

- (j) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral;
- (k) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include:
1. Charters or other contracts involving the use or hire of a vessel; or
 2. Records that evidence a right of payment arising out of the use of a credit or charge card or information contained on or for use with the card.

If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper;

- (l) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:
1. Proceeds to which a security interest attaches;

2. Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and
 3. Goods that are the subject of a consignment;
- (m) "Commercial tort claim" means a claim arising in tort with respect to which:
1. The claimant is an organization; or
 2. The claimant is an individual and the claim:
 - a. Arose in the course of the claimant's business or profession; and
 - b. Does not include damages arising out of personal injury to or the death of an individual;
- (n) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer;
- (o) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:
1. Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or
 2. Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer;
- (p) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books;
- (q) "Commodity intermediary" means a person that:
1. Is registered as a futures commission merchant under federal commodities law; or
 2. In the ordinary course of its business provides clearance or settlement

services for a board of trade that has been designated as a contract market pursuant to federal commodities law;

- (r) "Communicate" means:
1. To send a written or other tangible record;
 2. To transmit a record by any means agreed upon by the persons sending and receiving the record; or
 3. In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule;
- (s) "Consignee" means a merchant to which goods are delivered in a consignment;
- (t) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:
1. The merchant:
 - a. Deals in goods of that kind under a name other than the name of the person making delivery;
 - b. Is not an auctioneer; and
 - c. Is not generally known by its creditors to be substantially engaged in selling the goods of others;
 2. With respect to each delivery, the aggregate value of the goods is one thousand dollars (\$1,000) or more at the time of delivery;
 3. The goods are not consumer goods immediately before delivery; and
 4. The transaction does not create a security interest that secures an obligation;
- (u) "Consignor" means a person that delivers goods to a consignee in a consignment;
- (v) "Consumer debtor" means a debtor in a consumer transaction;
- (w) "Consumer goods" means goods that are used or bought for use primarily for

personal, family, or household purposes;

- (x) "Consumer-goods transaction" means a consumer transaction in which:
 - 1. An individual incurs an obligation primarily for personal, family, or household purposes; and
 - 2. A security interest in consumer goods secures the obligation;
- (y) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes;
- (z) "Consumer transaction" means a transaction in which:
 - 1. An individual incurs an obligation primarily for personal, family, or household purposes;
 - 2. A security interest secures the obligation; and
 - 3. The collateral is held or acquired primarily for personal, family, or household purposes.

The term includes consumer-goods transactions;

- (aa) "Continuation statement" means an amendment of a financing statement which:
 - 1. Identifies, by its file number, the initial financing statement to which it relates; and
 - 2. Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement;
- (ab) "Debtor" means:
 - 1. A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;
 - 2. A seller of accounts, chattel paper, payment intangibles, or promissory notes; or
 - 3. A consignee;

- (ac) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument;
- (ad) "Document" means a document of title or a receipt of the type described in KRS 355.7-201(2);
- (ae) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium;
- (af) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property;
- (ag) "Equipment" means goods other than inventory, farm products, or consumer goods;
- (ah) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:
 - 1. Crops grown, growing, or to be grown, including:
 - a. Crops produced on trees, vines, and bushes; and
 - b. Aquatic goods produced in aquacultural operations;
 - 2. Livestock, born or unborn, including aquatic goods produced in aquacultural operations;
 - 3. Supplies used or produced in a farming operation;
 - 4. Products of crops or livestock in their unmanufactured states; or
 - 5. Equine interests, including, but not limited to, interests in horses, mares, yearlings, foals, weanlings, stallions, syndicated stallions, and stallion shares (including seasons and other rights in connection therewith), whether or not the debtor is engaged in farming operations and without regard to the use thereof. If goods are farm products, they are neither equipment nor inventory;
- (ai) "Farming operation" means raising, cultivating, propagating, fattening,

- grazing, or any other farming, livestock, or aquacultural operation;
- (aj) "File number" means the number assigned to an initial financing statement pursuant to KRS 355.9-519(1);
- (ak) "Filing office" means an office designated in KRS 355.9-501 as the place to file a financing statement;
- (al) "Filing-office rule" means a rule adopted pursuant to KRS 355.9-526;
- (am) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement;
- (an) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying KRS 355.9-502(1) and (2). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures;
- (ao) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law;
- (ap) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software;
- (aq) (Reserved)
- (ar) "Goods" means all things that are movable when a security interest attaches.
1. The term includes:
 - a. Fixtures;
 - b. Standing timber that is to be cut and removed under a conveyance or contract for sale;
 - c. The unborn young of animals;

- d. Crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes; and
 - e. Manufactured homes.
2. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if:
 - a. The program is associated with the goods in such a manner that it customarily is considered part of the goods; or
 - b. By becoming the owner of the goods, a person acquires a right to use the program in connection with the goods.
 3. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded.
 4. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction;
- (as) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a State, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States;
- (at) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided or to be provided;
- (au) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business

is transferred by delivery with any necessary indorsement or assignment. The term does not include:

1. Investment property;
 2. Letters of credit; or
 3. Writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card;
- (av) "Inventory" means goods, other than farm products, which:
1. Are leased by a person as lessor;
 2. Are held by a person for sale or lease or to be furnished under a contract of service;
 3. Are furnished by a person under a contract of service; or
 4. Consist of raw materials, work in process, or materials used or consumed in a business;
- (aw) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account;
- (ax) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is organized;
- (ay) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit;
- (az) "Lien creditor" means:
1. A creditor that has acquired a lien on the property involved by attachment, levy, or the like;

2. An assignee for benefit of creditors from the time of assignment;
 3. A trustee in bankruptcy from the date of the filing of the petition; or
 4. A receiver in equity from the time of appointment;
- (ba) "Manufactured home" means a structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code;
- (bb) "Manufactured-home transaction" means a secured transaction:
1. That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or
 2. In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral;
- (bc) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation;
- (bd) "New debtor" means a person that becomes bound as debtor under KRS 355.9-203(4) by a security agreement previously entered into by another person;
- (be) "New value" means:
1. Money;

2. Money's worth in property, services, or new credit; or
3. Release by a transferee of an interest in property previously transferred to the transferee.

The term does not include an obligation substituted for another obligation;

- (bf) "Noncash proceeds" means proceeds other than cash proceeds;
- (bg) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral:
1. Owes payment or other performance of the obligation;
 2. Has provided property other than the collateral to secure payment or other performance of the obligation; or
 3. Is otherwise accountable in whole or in part for payment or other performance of the obligation.

The term does not include issuers or nominated persons under a letter of credit;

- (bh) "Original debtor," except as used in KRS 355.9-310(3), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under KRS 355.9-203(4);
- (bi) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation;
- (bj) "Person related to," with respect to an individual, means:
1. The spouse of the individual;
 2. A brother, brother-in-law, sister, or sister-in-law of the individual;
 3. An ancestor or lineal descendant of the individual or the individual's spouse; or
 4. Any other relative, by blood or matrimony~~[marriage]~~, of the individual or the individual's spouse who shares the same home with the individual;

(bk) "Person related to," with respect to an organization, means:

1. A person directly or indirectly controlling, controlled by, or under common control with the organization;
2. An officer or director of, or a person performing similar functions with respect to, the organization;
3. An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph 1. of this paragraph;
4. The spouse of an individual described in subparagraph 1., 2., or 3. of this paragraph; or
5. An individual who is related by blood or matrimony~~[marriage]~~ to an individual described in subparagraph 1., 2., 3., or 4. of this paragraph and shares the same home with the individual;

(bl) "Proceeds," except as used in KRS 355.9-609(2), means the following property:

1. Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;
2. Whatever is collected on, or distributed on account of, collateral;
3. Rights arising out of collateral;
4. To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or
5. To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral;

(bm) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain

an acknowledgment by a bank that the bank has received for deposit a sum of money or funds;

(bn) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to KRS 355.9-620, 355.9-621, and 355.9-622;

(bo) "Public-finance transaction" means a secured transaction in connection with which:

1. Debt securities are issued;
2. All or a portion of the securities issued have an initial stated maturity of at least twenty (20) years; and
3. The debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state;

(bp) "Public organic record" means a record that is available to the public for inspection and that is:

1. A record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;
2. An organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or
3. A record consisting of legislation enacted by the legislature of a state or the Congress of the United States which forms or organizes an

organization, any record amending the legislation, and any record filed with or issued by the state or United States which amends or restates the name of the organization;

- (bq) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation;
- (br) "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form;
- (bs) "Registered organization" means an organization formed or organized solely under the law of a single state or the United States by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state;
- (bt) "Secondary obligor" means an obligor to the extent that:
1. The obligor's obligation is secondary; or
 2. The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either;
- (bu) "Secured party" means:
1. A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

2. A person that holds an agricultural lien;
 3. A consignor;
 4. A person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;
 5. A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or
 6. A person that holds a security interest arising under KRS 355.2-401, 355.2-505, 355.2-711(3), 355.2A-508(5), 355.4-210, or 355.5-118;
- (bv) "Security agreement" means an agreement that creates or provides for a security interest;
- (bw) "Send," in connection with a record or notification, means:
1. To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or
 2. To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph 1. of this paragraph;
- (bx) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods;
- (by) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;
- (bz) "Supporting obligation" means a letter-of-credit right or secondary obligation

that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property;

(ca) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium;

(cb) "Termination statement" means an amendment of a financing statement which:

1. Identifies, by its file number, the initial financing statement to which it relates; and
2. Indicates either that it is a termination statement or that the identified financing statement is no longer effective; and

(cc) "Transmitting utility" means a person primarily engaged in the business of:

1. Operating a railroad, subway, street railway, or trolley bus;
2. Transmitting communications electrically, electromagnetically, or by light;
3. Transmitting goods by pipeline or sewer; or
4. Transmitting or producing and transmitting electricity, steam, gas, or water.

(2) The following definitions in other articles apply to this article:

- (a) "Applicant." KRS 355.5-102;
- (b) "Beneficiary." KRS 355.5-102;
- (c) "Broker." KRS 355.8-102;
- (d) "Certificated security." KRS 355.8-102;
- (e) "Check." KRS 355.3-104;
- (f) "Clearing corporation." KRS 355.8-102;
- (g) "Contract for sale." KRS 355.2-106;
- (h) "Customer." KRS 355.4-104;
- (i) "Entitlement holder." KRS 355.8-102;

- (j) "Financial asset." KRS 355.8-102;
- (k) "Holder in due course." KRS 355.3-302;
- (l) "Issuer." (with respect to a letter of credit or letter-of-credit right) KRS 355.5-102;
- (m) "Issuer." (with respect to a security) KRS 355.8-201;
- (n) "Lease." KRS 355.2A-103;
- (o) "Lease agreement." KRS 355.2A-103;
- (p) "Lease contract." KRS 355.2A-103;
- (q) "Leasehold interest." KRS 355.2A-103;
- (r) "Lessee." KRS 355.2A-103;
- (s) "Lessee in ordinary course of business." KRS 355.2A-103;
- (t) "Lessor." KRS 355.2A-103;
- (u) "Lessor's residual interest." KRS 355.2A-103;
- (v) "Letter of credit." KRS 355.5-102;
- (w) "Merchant." KRS 355.2-104;
- (x) "Negotiable instrument." KRS 355.3-104;
- (y) "Nominated person." KRS 355.5-102;
- (z) "Note." KRS 355.3-104;
- (aa) "Proceeds of a letter of credit." KRS 355.5-114;
- (ab) "Prove." KRS 355.3-103;
- (ac) "Sale." KRS 355.2-106;
- (ad) "Securities account." KRS 355.8-501;
- (ae) "Securities intermediary." KRS 355.8-102;
- (af) "Security." KRS 355.8-102;
- (ag) "Security certificate." KRS 355.8-102;
- (ah) "Security entitlement." KRS 355.8-102; and
- (ai) "Uncertificated security." KRS 355.8-102.

- (3) Article 1 of this chapter contains general definitions and principles of construction and interpretation applicable throughout this article.

➔Section 197. KRS 365.015 is amended to read as follows:

- (1) (a) The real name of an individual shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a ~~married~~ woman *in a matrimonial relationship*.
- (b) The real name of a domestic:
1. General partnership that is not a limited liability partnership and that has not filed a statement of partnership authority is that name which includes the real name of each of the partners;
 2. General partnership that is not a limited liability partnership and that has filed a statement of partnership authority is the name set forth on the statement of partnership authority;
 3. General partnership that is a limited liability partnership is the name stated on the statement of qualification filed pursuant to KRS 362.1-931 or predecessor law;
 4. Limited partnership is that name stated in its certificate of limited partnership filed pursuant to KRS 362.2-201 or predecessor law;
 5. Business trust or statutory trust is the name set forth in the declaration of trust;
 6. Corporation is the name set forth in its articles of incorporation;
 7. Limited liability company is the name set forth in its articles of organization;
 8. Limited cooperative association is the name set forth in its articles of association; and
 9. Unincorporated nonprofit association that has filed a certificate of association is the name set forth in the certificate of association and, if

no certificate of association has been filed, the name under which the unincorporated nonprofit association generally acts.

(c) The real name of a foreign:

1. General partnership is the name recognized by the laws of the jurisdiction under which it is formed as being the real name;
2. Limited liability partnership is the name stated in its statement of foreign qualification filed pursuant to KRS 362.1-952 or predecessor law;
3. Limited partnership is the name set forth in its certificate of limited partnership or the fictitious name adopted for use in this Commonwealth under KRS 14A.3-010 to 14A.3-050 or predecessor law;
4. Business trust or statutory trust is the name recognized by the laws of the jurisdiction under which it is formed as being the real name of the business trust or statutory trust or the fictitious name adopted for use in this Commonwealth under Subchapter 3 of KRS Chapter 14A;
5. Corporation, including a cooperative or association that is incorporated, is the name set forth in its articles of incorporation or the fictitious name adopted for use in this Commonwealth under KRS 14A.3-010 to 14A.3-050 or predecessor law;
6. Limited liability company is the name set forth in its articles of organization or the fictitious name adopted for use in this Commonwealth under KRS 14A.3-010 to 14A.3-050 or predecessor law;
7. Limited cooperative association is the name set forth in its articles of association or the fictitious name adopted for use in this Commonwealth under KRS 14A.3-010 to 14A.3-050 or predecessor law; and
8. Unincorporated nonprofit association is the name recognized by the laws of the jurisdiction under which it is organized as being the real name.

- (2) (a) No individual, general partnership, limited partnership, business or statutory trust, corporation, limited liability company, limited cooperative association, or unincorporated nonprofit association that has filed a certificate of association shall conduct or transact business in this Commonwealth under an assumed name or any style other than his, her, or its real name, as defined in subsection (1) of this section, unless such individual, general partnership, limited partnership, business or statutory trust, corporation, limited liability company, limited cooperative association, or unincorporated nonprofit association that has filed a certificate of association has filed a certificate of assumed name;
- (b) The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of the individual, general partnership, limited partnership, business or statutory trust, corporation, limited liability company, limited cooperative association, or unincorporated nonprofit association that has filed a certificate of association and his, her, or its address, including street and number, if any;
- (c) A separate certificate shall be filed for each assumed name;
- (d) No certificate to be filed with the Secretary of State shall set forth an assumed name which is not distinguishable upon the records of the Secretary of State from any other name previously filed and on record with the Secretary of State;
- (e) The certificate shall be executed for an individual, by the individual, and otherwise as provided by KRS 14A.2-020.
- (3) Each certificate of assumed name for an individual shall be filed with the county clerk where the person maintains his or her principal place of business. Each certificate of assumed name for a general partnership, limited partnership, business or statutory trust, corporation, limited liability company, or limited cooperative

association shall be delivered to the Secretary of State for filing, accompanied by one (1) exact or conformed copy. One (1) of the exact or conformed copies stamped as "filed" by the Secretary of State shall be filed with the county clerk of the county where the entity maintains its registered agent for service of process or, if no registered agent for service of process is required, then with the county clerk of the county where the entity maintains its principal office. If the entity does not maintain a registered agent for service of process and does not maintain a principal office in this Commonwealth, then the certificate of assumed name shall be filed only with the Secretary of State.

- (4) An assumed name shall be effective for a term of five (5) years from the date of filing and may be renewed for successive terms upon filing a renewal certificate within six (6) months prior to the expiration of the term, in the same manner of filing the original certificate as set out in subsection (3) of this section. Any certificate in effect on July 15, 1998, shall continue in effect for five (5) years and may be renewed by filing a renewal certificate with the Secretary of State.
- (5) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party formerly transacting business under the assumed name and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed for an individual by the individual or his or her agent and otherwise as provided in KRS 14A.2-020.
- (6) A general partnership, except a limited liability partnership, shall amend an assumed name certificate to reflect a change in the identity of partners. The amendment shall set forth:
 - (a) The assumed name and date of original filing;
 - (b) A statement setting out the changes in identity of the partners; and

- (c) Shall be signed by at least one (1) partner authorized to do so by the partners.
- (7) The filing of a certificate of assumed name shall not automatically prevent the use of that name or protect that name from use by other persons.
- (8) In the event of the merger or conversion of a partnership, limited partnership, business or statutory trust, corporation, limited liability company, or limited cooperative association, any certificate of assumed name filed by a party to a merger or conversion shall remain in full force and effect, as provided in subsection (4) of this section, as if originally filed by the business organization which survives the merger or conversion.
- (9) A certificate of assumed name may be amended to revise the real name or the address of the person or business organization holding the certificate of assumed name.
- (10) A certificate of assumed name, or its amendment or cancellation, shall be effective on the date it is filed, as evidenced by the Secretary of State's date and time endorsement on the original document, or at a time specified in the document as its effective time on the date it is filed. The document may specify a delayed effective time and date and, if it does so, the document shall become effective at the time and date specified. If a delayed effective date but no time is specified, the document shall be effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.
- (11) The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the Secretary of State shall receive a fee of twenty dollars (\$20) for filing each certificate, amendment, and renewal certificate.
- (12) A series entity, as defined in KRS 14A.1-070, may, on behalf of any series thereof, file a certificate of assumed name. The certificate shall provide that the assumed name is adopted on behalf of a series of the series entity and not on behalf of the series entity itself, but the certificate of assumed name shall be recorded on the

records of the Secretary of State as being that of the series entity.

➔Section 198. KRS 371.010 is amended to read as follows:

No action shall be brought to charge any person:

- (1) For any representation or assurance concerning the character, conduct, credit, ability, trade, or dealings of another, made with intent that such other may obtain thereby credit, money, or goods;
- (2) Upon any promise to pay a debt contracted during infancy, or any ratification of a contract or promise made during infancy;
- (3) Upon any promise of a personal representative as such to answer any liability of his decedent out of his own estate;
- (4) Upon any promise to answer for the debt, default, or misdoing of another;
- (5) Upon any agreement made in consideration of matrimony~~[marriage]~~, except mutual promises to enter into matrimony~~[marry]~~;
- (6) Upon any contract for the sale of real estate, or any lease thereof for longer than one year;
- (7) Upon any agreement that is not to be performed within one year from the making thereof;
- (8) Upon any promise, agreement, or contract for any commission or compensation for the sale or lease of any real estate or for assisting another in the sale or lease of any real estate; or
- (9) Upon any promise, contract, agreement, undertaking, or commitment to loan money, to grant, extend, or renew credit, or make any financial accommodation to establish or assist a business enterprise or an existing business enterprise including, but not limited to the purchase of realty or real property, but this subsection shall not apply to agreements pursuant to which credit is extended by means of a credit card or similar device, or to consumer credit transactions;

unless the promise, contract, agreement, representation, assurance, or ratification, or some

memorandum or note thereof, be in writing and signed by the party to be charged therewith, or by his authorized agent. It shall not be necessary to express the consideration in the writing, but it may be proved when necessary or disproved by parol or other evidence.

➔Section 199. KRS 382.080 is amended to read as follows:

- (1) No deed conveying any title to or interest in real property, or lease of oil, gas, coal or mineral right and privilege, for a longer time than five (5) years, nor any agreement in consideration of matrimony~~[marriage]~~, shall be good against a purchaser for a valuable consideration without notice thereof, or any creditor, unless the deed is acknowledged by the party who executes it, or is proved and lodged for record in the proper office, as prescribed by law.
- (2) The provisions of this section shall apply with like protection to the creditor of, or innocent purchaser from, the heir or devisee of the grantor.

➔Section 200. KRS 382.120 is amended to read as follows:

- (1) Before any deed to real property, the title to which has passed to the grantor under the laws of descent, is filed for record the grantor or grantee, or the agent or attorney or either, shall present to the county clerk the affidavit of the grantor or any one (1) of the heirs at law or next of kin of the ancestor of the grantor, or of two (2) residents of this state, each of whom has personal knowledge of the facts, which affidavit shall set forth:
 - (a) The name of the ancestor;
 - (b) The date of the ancestor's death;
 - (c) Whether the ancestor had entered into matrimony~~[was married]~~ or was single, and if the ancestor had entered into matrimony~~[married]~~, the name of the surviving spouse and his or her address;
 - (d) The place of residence at the time of the ancestor's death, if known to the affiant or affiants;

- (e) The fact that the ancestor died intestate; and
 - (f) The names, ages and addresses, so far as known or ascertainable, of each of such ancestor's heir at law and next of kin, who by his death inherited such real property, and the relationship of each to the ancestor and the interest in such real property inherited by each.
- (2) The affidavit shall be filed with the clerk of the county in which the real property is situated, at or before the time when the deed or conveyance is filed with the clerk for record, and shall be recorded in the record of deeds, and indexed in the general index of deeds in the name of such ancestor as grantor, and in the name of each of such heirs at law or next of kin as grantees, in the same manner as if such names occurred in a deed of conveyance from the ancestor to the heirs at law. For indexing and recording the affidavit, the clerk shall receive the same fees as are allowed for recording and indexing deeds.
- (3) No county clerk or deputy clerk shall receive or permit to be lodged for record any such deed until the affidavit has been presented to him, but nothing in this section shall prevent the recording from being legal of any such deed lodged for record prior to the filing of the affidavit.

➔Section 201. KRS 382.205 is amended to read as follows:

- (1) Any county where indexes to the records of deeds, mortgages, wills, matrimonies~~[marriages]~~, or other public records have been or may hereafter be prepared by the Work Projects Administration or other appropriate agency of the United States government, or by order of the fiscal court of any county, such indexes or any of them may be adopted as the official general cross indexes of such records in the manner provided by this section in addition to each individual book index. Upon the completion of any such indexing project by an appropriate federal agency or by a person or persons acting under the authority of a fiscal court, or at any time thereafter, any citizen of the county may petition the county

judge/executive to have said index adopted as the official index. Upon the filing of the petition, the county judge/executive may forthwith by appropriate order designate a licensed attorney practicing in the county who with the county attorney and county clerk shall comprise a commission to examine the index proposed to be adopted and ascertain whether the index is a complete and accurate index of the records to which it pertains. The commission shall thereupon make such examination as may be necessary to ascertain to its satisfaction whether such index is complete and accurate. Upon completion of such examination, the commission shall make a written report to the county judge/executive of the results thereof and of its recommendations, which report shall lie over for exceptions for sixty (60) days. Notice of the filing of said report shall be given by the clerk by publication pursuant to KRS Chapter 424. Exceptions may be filed by any interested person, and if filed shall be heard and determined as in other cases. If no exceptions are filed thereto, or upon the exceptions (if any) the county judge/executive shall hear such proof as may be thought proper respecting the report filed by the clerk and the exceptions, and shall determine whether the said index is complete and accurate, and if it is determined that the index is complete and accurate, an order shall be entered adopting said index; provided, that if from such report or such proof it appears that corrections or additions should be made to such index in order to render it accurate and complete, the order may direct that such corrections or additions shall be made by the clerk, and in that event it shall be the duty of the clerk to make such corrections or additions forthwith, and upon his report that he has done so an order shall be entered adopting the index as so corrected. If adopted, said index shall thereupon become the official general cross index of the records to which it pertains, and all persons shall be entitled to rely thereon to the same extent as if the index had been prepared by the county clerk. Upon the adoption of any such index, it shall be the duty of the clerk to bring same up to date from the point

at which same ceased to be made by the agency which prepared it, and to continue and maintain said index thereafter in lieu of the indexing system theretofore used, except he will continue to keep the regular individual book index, and to index all instruments lodged for record in conformity therewith. The indexes theretofore used shall not be destroyed after the adoption of the new indexes, but shall be safely kept by the clerk as other records are kept, subject to inspection by any person interested therein.

- (2) Expenses incurred by the county clerk under the provisions of this section shall be paid by the fiscal court of the county.

➔Section 202. KRS 385.132 is amended to read as follows:

- (1) A custodian, acting in a custodial capacity, has all the rights, powers, and authority over custodial property that ~~unmarried~~ adult owners **who are not in a matrinial relationship** have over their own property, but a custodian may exercise those rights, powers, and authority in that capacity only.
- (2) This section does not relieve a custodian from liability for breach of KRS 385.122.

➔Section 203. KRS 386B.10-070 is amended to read as follows:

If the happening of an event, including **matrimony**~~[marriage]~~, divorce, performance of educational requirements, or death, affects the administration or distribution of a trust, a trustee who has exercised reasonable care to ascertain the happening of the event is not liable for a loss resulting from the trustee's lack of knowledge.

➔Section 204. KRS 386B.8-150 is amended to read as follows:

- (1) A trustee, without authorization by the court, may exercise:
- (a) Powers conferred by the terms of the trust; and
 - (b) Except as limited by the terms of the trust:
 1. All powers over the trust property which ~~a[an unmarried]~~ competent owner **who is not in a matrimonial relationship** has over individually owned property;

2. Any other powers appropriate to achieve the proper investment, management, and distribution of the trust property; and
 3. Any other powers conferred by this chapter.
- (2) The exercise of a power is subject to the fiduciary duties prescribed by this subchapter.

➔Section 205. KRS 387.025 is amended to read as follows:

- (1) Any interested person or entity may petition the District Court for the appointment of a guardian or limited guardian for an ~~unmarried~~ minor **who is not in a matrimonial relationship.**
- (2) Any interested person or entity may petition the District Court for appointment of a conservator for a minor who owns real or personal property, or both, requiring management or protection or who has or may have business interests that may be jeopardized or prevented by minority, or who needs a conservator to settle or compromise claims.
- (3) The petition for appointment shall set forth the following:
 - (a) The name and address of the minor;
 - (b) The date of birth of the minor;
 - (c) The name and address of the minor's spouse, if any;
 - (d) The names and addresses of the minor's parents, or if the minor has no living parent, the names and addresses of the minor's adult next of kin;
 - (e) The name and address of the individual or facility having custody of the minor;
 - (f) The facts and reasons supporting the need for a guardianship, limited guardianship, or conservatorship for the minor;
 - (g) A description and approximation of the value of the minor's real and personal property and other financial resources, including government benefits, insurance entitlements, and anticipated yearly income;

- (h) The name and address of the petitioner;
 - (i) The name and address of the petitioner's attorney, if any; and
 - (j) The name and address of the person or entity desiring appointment as guardian, limited guardian, or conservator.
- (4) The petition shall be accompanied by a verified application of the person or entity desiring appointment as guardian, limited guardian, or conservator. The application shall set forth the following:
- (a) Name, address, and age of the applicant;
 - (b) The applicant's relationship to the minor, if any;
 - (c) Whether or not the applicant has ever been convicted of a crime; and
 - (d) The applicant's qualifications to serve as guardian, limited guardian, or conservator.
- (5) The District Court shall appoint a time for hearing the petition and application. Notice of the time and place of the hearing shall be given not less than five (5) days prior to the hearing to the minor, if the minor is more than fourteen (14) years of age, and to each of the persons or entities required to be named in the petition. Proof of notice shall be made in accordance with the provisions of KRS 395.016. Notice may be waived as provided in KRS 395.016.

➔Section 206. KRS 387.065 is amended to read as follows:

- (1) A guardian of a ward shall have the powers and responsibilities of a parent regarding the ward's support, care, and education, but a guardian shall not be personally liable for the ward's expenses and shall not be liable to third persons by reason of the relationship for acts of the ward.
- (2) In particular and without qualifying the foregoing, a guardian shall:
 - (a) Take custody of the person of the ward and establish the ward's place of abode within the Commonwealth; and
 - (b) Take reasonable care of the ward's personal effects.

- (3) A guardian may:
- (a) Receive money payable for the support of the ward to the ward's parent, guardian, or custodian under the terms of any statutory benefit or insurance system or any private contract, devise, trust, or custodianship;
 - (b) Consent to medical or other professional care, treatment, or advice for the ward, without liability by reason of the consent, for injury to the ward resulting from the negligence or acts of third persons unless a parent would have been liable in the circumstances;
 - (c) Consent to the ward's matrimony~~[marriage]~~, adoption, or enlistment in military service;
 - (d) Extend funds of the ward's estate for the support of persons legally dependent on the ward.
- (4) A guardian shall expend or distribute income or principal of the ward's estate without District Court authorization or confirmation for the support, care, and education of the ward. The District Court may limit or restrict the guardian's exercise of this power.
- (5) In performing the guardian's duties relating to support, care, and education of the ward, a guardian shall consider:
- (a) Recommendations relating to the appropriate standard of support, care, and education for the ward made by a parent or limited guardian, if any;
 - (b) The size of the estate under the guardian's supervision or control;
 - (c) The ward's age, capacities, limitations, needs, opportunities, and physical and mental health;
 - (d) The likelihood that the ward will be able to labor and earn money when the ward becomes an adult;
 - (e) The accustomed standard of living of the ward; and
 - (f) Other funds or sources used for the support of the ward which have not been

placed under the control or supervision of the guardian.

- (6) A guardian shall not provide for the support, care, or education of a ward which a parent of the ward is legally obligated and financially able to provide.
- (7) Funds expended under this section may be paid by a guardian to any person, including the ward, to reimburse for expenditures that the guardian might have made, or in advance for services to be rendered to the ward if it is reasonable to expect the services will be performed and advance payments are customary or reasonably necessary under the circumstances.
- (8) When a ward attains age eighteen (18), the guardian, after meeting all claims and expenses of administration, shall pay over and distribute all funds and properties to the ward as soon as possible, unless:
 - (a) The ward has been determined to be disabled or partially disabled under KRS 387.500 to 387.770, in which event the ward's funds and properties shall be paid over and distributed to the guardian, limited guardian, conservator, or limited conservator appointed pursuant to KRS 387.500 to 387.770; or
 - (b) The guardian has reason to believe that the ward is disabled or partially disabled as defined in KRS 387.510, in which event, the guardian shall institute a proceeding for appointment of a guardian, limited guardian, conservator or limited conservator pursuant to KRS 387.500 to 387.770.

➔Section 207. KRS 391.100 is amended to read as follows:

The issue of all illegal or void matrimonies~~marriages~~ is considered as if born in lawful wedlock.

➔Section 208. KRS 391.105 is amended to read as follows:

- (1) For the purpose of intestate succession, if a relationship of parent and child must be established to determine succession by, through, or from a person, a person born out of wedlock is a child of the natural mother. That person is also a child of the natural father if:

- (a) The natural parents participated in a matrimony~~[marriage]~~ ceremony before or after the birth of the child, even though the attempted matrimony~~[marriage]~~ is void; or
 - (b) In determining the right of the child or its descendants to inherit from or through the father:
 - 1. There has been an adjudication of paternity before the death of the father; or
 - 2. There has been an adjudication of paternity after the death of the father based upon clear and convincing proof;
 - (c) In determining the right of the father or his kindred to inherit from or through the child:
 - 1. There has been an adjudication of paternity before the death of the child; or
 - 2. There has been an adjudication of paternity after the death of the child based on clear and convincing proof and the evidence in such adjudication shall have demonstrated that the father openly treated the child as his, and the father did not follow a consistent policy of refusing to support the child on the ground of nonpaternity.
- (2) The terms and conditions set out in this section shall also apply in actions brought pursuant to KRS 411.130 and 411.135.

➔Section 209. KRS 391.210 is amended to read as follows:

KRS 391.210 to 391.260 applies to the disposition at death of the following property acquired by a ~~[married]~~ person *in a matrimonial relationship*:

- (1) All personal property, wherever situated:
 - (a) Which was acquired as or became, and remained, community property under the laws of another jurisdiction; or
 - (b) All or the proportionate part of that property acquired with the rents, issues, or

income of, or the proceeds from, or in exchange for, that community property;
or

- (c) Traceable to that community property;
- (2) All or the proportionate part of any real property situated in this state which was acquired with the rents, issues or income of, the proceeds from, or in exchange for, property acquired as or which became, and remained, community property under the laws of another jurisdiction, or property traceable to that community property.

➔Section 210. KRS 391.215 is amended to read as follows:

In determining whether KRS 391.210 to 391.260 applies to specific property the following rebuttable presumptions apply:

- (1) Property acquired during matrimony~~[marriage]~~ by a spouse of that matrimony~~[marriage]~~ while domiciled in a jurisdiction under whose laws property could then be acquired as community property is presumed to have been acquired as or to have become, and remained, property to which KRS 391.210 to 391.260 applies; and
- (2) Real property situated in this Commonwealth and personal property wherever situated acquired by a ~~married~~ person in a matrimonial relationship while domiciled in a jurisdiction under whose laws property could not then be acquired as community property, title to which was taken in a form which created rights of survivorship, is presumed not to be property to which KRS 391.210 to 391.260 applies.

➔Section 211. KRS 391.220 is amended to read as follows:

Upon death of a ~~married~~ person in a matrimonial relationship, one-half (1/2) of the property to which KRS 391.210 to 391.260 applies is the property of the surviving spouse and is not subject to testamentary disposition by the decedent or distribution under the laws of succession of this Commonwealth. One-half (1/2) of that property is the property of the decedent and is subject to testamentary disposition or distribution under the laws of

succession of this Commonwealth. With respect to property to which KRS 391.210 to 391.260 applies, the one-half (1/2) of the property which is the property of the decedent is not subject to the surviving spouse's right to elect against the will.

→Section 212. KRS 391.245 is amended to read as follows:

KRS 391.210 to 391.260 does not prevent~~[-married]~~ persons *in a matrimonial relationship* from severing or altering their interests in property to which KRS 391.210 to 391.260 applies.

→Section 213. KRS 392.040 is amended to read as follows:

- (1) The surviving spouse shall not have dower or curtesy in land sold but not conveyed by the deceased spouse before *matrimony*~~[-marriage]~~, nor in land sold in good faith after *matrimony*~~[-marriage]~~ to satisfy an encumbrance created before *matrimony*~~[-marriage]~~ or created by deed in which the surviving spouse joined, or to satisfy a lien for the purchase money. If, however, there is a surplus of the land or proceeds of sale after satisfying the lien, surviving spouse may have dower or curtesy out of that surplus of the land or compensation out of the surplus of the proceeds, unless they were received or disposed of by the decedent in his lifetime.
- (2) If the decedent held land by executory contract only, the surviving spouse shall not have dower or curtesy in the land, unless decedent owned such an equitable right at the time of his death.

→Section 214. KRS 392.120 is amended to read as follows:

- (1) A conveyance or devise of real or personal estate, by way of jointure, may bar the surviving spouse's interest in the property and estate of the deceased spouse. If, however, the jointure is made before *matrimony*~~[-marriage]~~ without the surviving spouse's consent, or during the surviving spouse's infancy the surviving spouse may, within twelve (12) months after decedent's death, waive the jointure by written relinquishment, acknowledged or proved before, and left with, the county clerk, and have dower, curtesy, or share of the estate as provided by KRS 392.020. A copy of

such relinquishment shall be filed with the clerk of the court in which probate was made. When the surviving spouse so demands and receives dower, curtesy or such share of decedent's estate, the estate conveyed or devised in lieu of dower or curtesy shall determine and revert to the heirs or representatives of the grantor or devisor.

- (2) Where the surviving spouse is lawfully deprived of jointure, or any part of jointure, and not through any act of the surviving spouse's own, the surviving spouse shall have indemnity for jointure out of decedent's estate.

→Section 215. KRS 392.140 is amended to read as follows:

Whenever a ~~married~~ person **in a matrimonial relationship** has become a confirmed mentally disabled person, the Circuit Court of the county in which is situated land belonging to the spouse of such disabled person may, upon the petition of the spouse of the mentally disabled person, adjudge the sale and conveyance, or the mortgage, of the inchoate right of dower or curtesy of the person under disability. The mentally disabled person and his guardian or conservator, if he has one, shall be made defendants to the action; if he has no guardian or conservator, the court shall appoint an attorney to defend for him, to whom the court shall make a reasonable allowance to be paid by the spouse of the mentally disabled person. A description of the land shall be given in the petition and the evidence of title of the spouse of the mentally disabled person filed therewith. If the court is satisfied by the proof that the mentally disabled spouse is a confirmed mentally disabled person, it may adjudge the sale and conveyance, or mortgage, of her inchoate right of dower or his inchoate right to curtesy in said land, and if the mentally disabled spouse has a guardian or conservator, the court may direct that he unite with the spouse of the mentally disabled person in the deed or mortgage; if the mentally disabled spouse has no guardian or conservator, the court shall appoint a commissioner who shall unite with the spouse of the mentally disabled person in the deed or mortgage. Before any judgment pursuant to this section shall be rendered, the spouse of the mentally disabled person, with at least two (2) good sureties, shall execute before the court a covenant to the

Commonwealth for the benefit of the mentally disabled spouse, to be approved by the court, that the mentally disabled spouse will be paid the value of his right of dower or curtesy in the land should such right thereafter become complete.

→Section 216. KRS 394.090 is amended to read as follows:

A will shall not be revoked by the matrimony~~[marriage]~~ of the person who made the will.

→Section 217. KRS 394.092 is amended to read as follows:

If after executing a will the testator is divorced or his matrimony~~[marriage]~~ annulled, the divorce or annulment revokes any disposition or appointment of property made by the will to the former spouse, any provision conferring a general or special power of appointment on the former spouse, and any nomination of the former spouse as executor, trustee, conservator or guardian, unless the will expressly provides otherwise. Property prevented from passing to a former spouse because of revocation by divorce or annulment passes as if the former spouse failed to survive the decedent, and other provisions conferring some power or office on the former spouse are interpreted as if the spouse failed to survive the decedent. If provisions are revoked solely by this section, they are revived by the testator's reentry into matrimony with~~[remarriage to]~~ the former spouse.

→Section 218. KRS 395.005 is amended to read as follows:

The following persons may be appointed as fiduciary:

- (1) Any resident of the state of Kentucky, over eighteen (18) years of age, except as set out in KRS 395.080, and any national bank located in Kentucky having fiduciary powers and any state bank or trust company incorporated under the laws of the state of Kentucky and authorized by law to act as fiduciary;
- (2) To the extent permitted pursuant to KRS 286.3-146 and 286.3-920(6) any bank or trust company organized under the laws of a state other than Kentucky; and
- (3) Any nonresident of legal age who is as to the decedent, ward, or incompetent, related by consanguinity, matrimony~~[marriage]~~, adoption or the spouse of such person so related.

➔Section 219. KRS 6.515 is amended to read as follows:

- (1) Service credit in the Legislators' Retirement Plan shall be acquired only by service as a legislator after July 1, 1980, while a member of the plan, by transfer of credit as provided in KRS 6.505, or by purchase or transfer of credit as provided in this section.
- (2) (a) 1. Any active member who began participating in the Legislators' Retirement Plan prior to January 1, 2014, who has at least five (5) years of service credit in the Legislators' Retirement Plan, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the legislator in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan.
2. Any active member who began participating in the Legislators' Retirement Plan prior to January 1, 2014, who has at least five (5) years of service credit in the Legislators' Retirement Plan may purchase and receive service credit for one (1) month of service for each six (6) months of service in the reserves or the National Guard by paying the retirement system one hundred percent (100%) of the actuarial cost of

the service as determined by the board of trustees, based on the assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the legislator in question under KRS 6.520. Service credit awarded as provided in this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan. The service in the military reserves or the National Guard shall be treated as service earned prior to participation in the plan. The purchase can be made by the member by transfer, if authorized under subsection (7)(d) of this section, or in a lump-sum payment or by installment payments, as set forth in paragraph (b) of this subsection. The payment shall not be picked up by the employer as provided in KRS 6.505(4).

- (b) The member, if the member began participating in the Legislators' Retirement Plan prior to January 1, 2014, may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump-sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further

installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

- (c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).
- (3) In the event of divorce, rights to benefits shall be considered matrimonial~~marital~~ property subject to the provisions of KRS 403.190.
- (4) A member who began participating in the Legislators' Retirement Plan prior to January 1, 2014, who has qualified for benefits under KRS 6.525(1) may transfer to the Legislators' Retirement Plan up to ten (10) years of service credit which he has earned in a retirement system administered by Kentucky Retirement Systems. If the member elects to transfer his service credit, the system from which the transfer is made shall transfer to the legislators' retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to date of transfer at the actuarially assumed interest rate of the system from which the transfer is made in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies under KRS 6.520, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Legislators' Retirement Plan, as determined by the actuary for the Legislators' Retirement Plan. The member may pay by transfer, if authorized under subsection (7)(d) of this section, by lump sum, or by increments, as provided for in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not

be picked up by the employer under KRS 6.505(4).

- (5) (a) Any active member who began participating in the Legislators Retirement Plan prior to January 1, 2014, who is vested in the Legislators Retirement Plan under KRS 6.525 shall receive service credit for a maximum of four (4) years each for his period of service as a Domestic Relations Commissioner, a Master Commissioner, or a District Court Trial Commissioner of the Commonwealth of Kentucky, or a combination thereof, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).
- (b) Any active member who began participating in the Legislators Retirement Plan prior to January 1, 2014, who is vested in the Legislators Retirement Plan under KRS 6.525, shall receive service credit for his period of service to the United States Government, other than service in the Armed Forces, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of

trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).

- (c) Any member who began participating in the Legislators Retirement Plan prior to January 1, 2014, who was in office on June 21, 2001, and who was in active contributing status to the applicable retirement plan on June 21, 2001, and who has at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit that is not otherwise purchasable, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The member shall be entitled to the service credit at the rate at which he qualifies under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan, except that the service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service,

excluding service purchased under this subsection, then upon retirement, death, or written request following termination, the payment shall be refunded. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).

- (d) A member who began participating in the Legislators Retirement Plan prior to January 1, 2014, may purchase service credit under the provisions of this section by transferring funds through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Legislators Retirement Fund shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's account and shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).

➔Section 220. KRS 21.540 is amended to read as follows:

- (1) Except as provided in KRS 21.550, 21.560, and subsection (3) of this section, the board of trustees of the Judicial Form Retirement System shall be charged with the administration of that system and of KRS 21.350 to 21.510, and shall have all powers necessary thereto, including the power to promulgate all reasonable administrative regulations, pass upon questions of eligibility and disability, make

employments for services, and to contract for fiduciary liability insurance, and for investment counseling, actuarial, auditing, and other professional services as required without the limitations of KRS 45A.045. The administrative expenses shall be paid out of an administrative account which shall be funded by transfers of the necessary money, in appropriate ratio, from the funds provided for in KRS 21.550 and 21.560.

- (2) (a) A qualified domestic relations order issued by a court or administrative agency shall be honored by the Judicial Form Retirement System if the order is in compliance with the requirements established by the retirement system.
- (b) Except in cases involving child support payments, the Judicial Form Retirement System may charge reasonable and necessary fees and expenses to the participant and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by the retirement system. All fees and expenses shall be established by administrative regulations promulgated by the board of trustees of the retirement system. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:
1. Solely by the participant;
 2. Solely by the alternate payee; or
 3. Equally shared by the participant and alternate payee.
- (c) For purposes of this subsection, a "qualified domestic relations order" shall mean any judgment, decree, or order, including approval of a property settlement agreement, that:
1. Is issued by a court or administrative agency; and
 2. Relates to the provision of child support, alimony payments, or matrimonial~~marital~~ property rights to a spouse, former spouse, child, or other dependent of a member.

- (3) Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 21.345 to 21.580 and 6.500 to 6.577 shall conform with federal statutes or regulations and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance, and the board shall have the authority to promulgate administrative regulations, with retroactive effect if required under federal law, to conform the Legislators' Retirement Plan and the Judicial Retirement Plan with federal statutes and regulations and to meet the qualification requirements under 26 U.S.C. sec. 401(a).
- (4) The Judicial Form Retirement System shall make available on a public Web site, a listing of all system expenditures and a listing of each individual employed by the systems along with the employee's salary or wages. The system may provide the information through a Web site established by the executive or judicial branch to inform the public about executive or judicial branch agency expenditures and public employee salaries and wages. Nothing in this subsection shall require or compel the Judicial Form Retirement System to disclose information specific to the account of an individual member of the Legislators' Retirement Plan or the Judicial Retirement Plan.
- (5) No trustee or employee of the board shall:
 - (a) Have any interest, direct or indirect, in the gains or profits of any investment or transaction made by the board, provided that the provisions of this paragraph shall not prohibit a member or retiree of one (1) of the retirement plans administered by the system from serving as a trustee;
 - (b) Directly or indirectly, for himself or herself or as an agent, use the assets of the system, except to make current and necessary payments authorized by the board;
 - (c) Become an endorser, surety, or obligor for moneys loaned by or borrowed

from the board;

- (d) Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee;
 - (e) Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;
 - (f) Use confidential information acquired during his or her tenure with the systems to further his or her own economic interests or that of another person;
or
 - (g) Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the system. The provisions of this paragraph shall not prohibit:
 - 1. A trustee from serving as a judge or member of the General Assembly;
or
 - 2. A trustee from serving on the board if the compensation is de minimus and incidental to the trustee's outside employment. If the compensation is more than de minimus, the trustee shall disclose the amount of the compensation to the other trustees and recuse himself or herself from any matters involving hiring or retaining a person or a business from whom more than de minimus amounts are received by the trustee. For purposes of this section, "de minimus" means an insignificant amount that does not raise a reasonable question as to the trustee's objectivity.
- (6) Notwithstanding any other provision of KRS 6.500 to 6.577 and 21.345 to 21.580 to the contrary, no funds of the Legislators' Retirement Plan or the Judicial Retirement Plan, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to unregulated placement agents. For purposes of this subsection, "unregulated placement agent" means an individual or firm who solicits

investments on behalf of an investment manager, private fund, or company issuing securities, who is prohibited by federal securities laws and regulations promulgated thereunder from receiving compensation for soliciting a government agency.

➔Section 221. KRS 61.510 is amended to read as follows:

As used in KRS 61.510 to 61.705, unless the context otherwise requires:

- (1) "System" means the Kentucky Employees Retirement System created by KRS 61.510 to 61.705;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;
- (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- (5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- (6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;
- (7) "State" means the Commonwealth of Kentucky;

- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;
- (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest

credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);

- (13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made

available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4). For employees who begin participating on or after September 1, 2008, creditable compensation shall not include payments for compensatory time;

(14) "Final compensation" of a member means:

- (a) For a member who begins participating before September 1, 2008, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
- (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;
- (c) For a member who begins participating before September 1, 2008, who is

employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

- (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years shall be used; or
 - (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour

workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.510 to 61.705;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits as established by 26 U.S.C. sec. 415;
- (20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;
- (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by

using the number of months actually worked within a calendar or fiscal year, including all positions except:

- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
 - (b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;
 - (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and
 - (e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;
- (22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held

corporation or other similar organization, and therefore is no longer participating in the system. The term "parted employer" shall not include a department, board, or agency that ceased participation in the system pursuant to KRS 61.522;

- (24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded actuarial accrued liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded actuarially accrued liability shall be projected to be fully amortized at the conclusion of the set period;
- (29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

- (30) "Person" means a natural person;
- (31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543;
- (35) "Month" means a calendar month;
- (36) "Membership date" means:
- (a) The date upon which the member began participating in the system as provided in KRS 61.543; or
 - (b) For a member electing to participate in the system pursuant to KRS 196.167(4) who has not previously participated in the system or the Kentucky Teachers' Retirement System, the date the member began participating in a defined contribution plan that meets the requirements of 26 U.S.C. sec.

403(b);

- (37) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (24) of this section;
- (38) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
- (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or matrimonial~~marital~~ property rights to an alternate payee;
- (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (40) "Accumulated employer credit" mean the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597; and
- (41) "Accumulated account balance" means:
- (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
 - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit.

➔Section 222. KRS 67C.117 is amended to read as follows:

- (1) (a) It shall be the policy of the consolidated local government to ensure that opportunities generated directly or indirectly by the consolidated local government are equally available to all citizens without regard to race, color, religion, national origin, matrimonial~~marital~~ status, physical handicap, sex, or age.

- (b) It shall also be the policy of the consolidated local government to include the minority community in all aspects of governance in the consolidated local government. Minority citizens and business shall be represented in all actions of the consolidated government, including but not limited to government employment, appointments to boards or commissions, contracting, and purchasing.
- (2) The percentage of minority citizens who shall be employed by the consolidated local government shall be no less than the percentage of minority citizens available in the consolidated local government's Metropolitan Statistical Area defined by the United States Office of Management and Budget as used by the United States Census Bureau survey. The percentage of minority citizens who shall be appointed to each of its boards and commissions shall be no less than the percentage of minority citizens in the community, or the percentage of minority representatives on the consolidated local government's legislative body, whichever is greater.
- (3) The consolidated local government shall adopt ordinances and develop policies to achieve the mandate set forth in this section.

➔Section 223. KRS 67C.119 is amended to read as follows:

- (1) The consolidated local government shall have an affirmative action plan that complies with all current federal guidelines and requirements relevant to local governments.
- (2) The mayor shall prepare and implement an affirmative action plan.
- (3) There shall be established under the direction of the mayor an office that shall be called the "Affirmative Action Office."
- (4) The Affirmative Action Office shall aid the mayor in preparing the plan, and shall be responsible for the day-to-day operation and implementation of the affirmative action plan.
- (5) An affirmative action plan, in addition to following all federal requirements, shall

include good faith efforts to:

- (a) Determine the extent to which minorities and women are underutilized in major categories;
 - (b) Identify and eliminate the specific causes of the underutilization;
 - (c) Identify and eliminate all employment practices that have an adverse impact on minorities, women, and others protected by applicable law and the relationship of which to job performance has not been clearly established;
 - (d) Rely exclusively on practices that are based on merits and other valid job related criteria;
 - (e) Develop substantial applicant pools of validly qualified minorities and women, special recruitment efforts, and other measures to insure that sufficient numbers of these groups are included to help reduce their underutilization;
 - (f) Develop, through special recruitment efforts and other measures, applicant pools in which handicapped persons are represented equitably;
 - (g) Project goals and timetables to include estimates of the representation of minorities and women likely to result from the operation of this affirmative action plan; and
 - (h) Establish organizational structures and monitoring systems that will ensure effective operation of its goals, and means for modification of the plan as needed.
- (6) All contracts, leases, or other agreements for materials, supplies, equipment, or, contractual services other than professional that, in the aggregate, exceed the amount for small purchases in KRS 45A.385 in any fiscal year shall be awarded in compliance with KRS 424.260 or with KRS 45A.343 to 45A.460, if applicable.
- (7) Notwithstanding anything to the contrary in this section, the provisions of this section shall apply to every person, firm, corporation, and association that has been

awarded contracts, leases, or other agreements as provided by KRS 424.260 or with KRS 45A.343 to 45A.460, if applicable, that, in the aggregate, exceed the amount for small purchases in KRS 45A.385 in any fiscal year.

- (8) Employment opportunities generated directly or indirectly by the government of the consolidated local government shall be equally available to all citizens without regard to race, color, religion, national origin, matrimonial~~[marital]~~ status, physical handicap, sex, or age. In order to ensure that employment opportunities generated directly or indirectly by the consolidated local government are equally available, contractors and vendors shall be approved as provided by this section prior to the awarding of any contract, lease, or other agreement that requires an expenditure in excess of the amount for small purchases in KRS 45A.385 with the consolidated local government.
- (9) No person, firm, corporation, or association shall be awarded a contract, lease, or other agreement that requires an expenditure in excess of the amount for small purchases in KRS 45A.385 until and unless that person, firm, corporation, or association has been prequalified as determined by procedures and requirements enacted by ordinance by the consolidated local government.
- (10) No officer, employee, or agent of the consolidated local government shall accept a contract, lease, or other agreement that requires an expenditure in excess of the amount for small purchases in KRS 45A.385 with the consolidated local government until and unless that person, firm, corporation, or association has been prequalified as determined by procedures and requirements enacted by ordinance by the consolidated local government.
- (11) All persons, firms, corporations, or associations seeking to bid on contracts, leases, or other agreements that require an expenditure exceeding the amount for small purchases in KRS 45A.385 with the consolidated local government shall submit a request for prequalification as an eligible contractor, pursuant to the procedures and

requirements enacted by ordinance by the consolidated local government.

- (12) The consolidated local government shall make available a list of all bidders who have been prequalified and shall distribute the list to the appropriate purchasing officers, employees, or agents of the consolidated local government.
- (13) Any person, firm, corporation, or association that submits an otherwise qualified bid for a contract, lease, or other agreement pursuant to the provisions of KRS 424.260, but that has not prequalified pursuant to this section, may be approved by the consolidated local government as provided by this section. Any person, firm, or corporation that is approved by the consolidated local government shall thereafter be qualified and considered eligible for award for a contract, lease, or other agreement.
- (14) The consolidated local government shall prequalify persons, firms, corporations, and associations seeking a contract, lease, or other agreement that requires an expenditure exceeding the amount for small purchases in KRS 45A.385 with the consolidated local government if, on an analysis of the workforce of that entity, the consolidated local government determines that:
- (a) The entity is not deficient in the utilization of minority groups or women;
 - (b) The entity has an acceptable, bona fide affirmative action plan;
 - (c) The entity is a small business that employs ten (10) or fewer individuals;
 - (d) The entity has a federally approved affirmative action program; or
 - (e) The consolidated local government has made a finding based on other reasonable criteria, and after consideration of the provisions of 41 C.F.R. 60-2, determines the entity does not require an affirmative action plan.
- (15) An acceptable affirmative action plan for an entity seeking a contract, lease, or other agreement with a consolidated local government shall include:
- (a) An analysis of the areas of the entity's workforce within which it is deficient in the utilization of minority groups and women; and

- (b) Timetables to which the entity's good faith efforts shall be directed to correct the deficiencies and to achieve prompt and full utilization of minorities and women at all levels and in all segments of its workforce where deficiencies exist.
- (16) A bona fide affirmative action plan for an entity seeking a contract, lease, or other agreement with a consolidated local government shall include a set of specific and result-oriented procedures, goals, and timetables to which an entity commits itself to apply every good faith effort in order to achieve equal employment opportunity. Procedures without effort to make them work are meaningless and effort undirected by specific and meaningful procedures is inadequate.
- (17) In reviewing an affirmative action plan for an entity seeking a contract, lease, or other agreement with a consolidated local government, the consolidated local government shall be guided by the relevant provisions of 41 C.F.R. 60-2 which outlines the requirements of affirmative action plans for federal contractors and vendors.
- (18) The consolidated local government shall use its best efforts, directly and through contracting agencies, other interested federal, state, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work pursuant to contracts, leases, and agreements that are the subject matter of this section or any agency referring workers or providing or supervising apprenticeship or training for or in the course of this work to cooperate in the implementation of the purposes of this section.
- (19) The consolidated local government on its own motion or on motion of any interested party shall cause hearings as it deems necessary for compliance or enforcement of this section.
- (20) The consolidated local government shall hold a hearing prior to imposing or recommending the imposition of penalties and sanctions for violation of this

section. No penalty that would prohibit any contractor from obtaining future contracts under this section shall be made without affording the contractor an opportunity for a hearing.

- (21) Notice of any final decision or determination of the consolidated local government that affects the running of time for taking an appeal shall be mailed to all parties in the matter, including the proposed contractor, lessor or other party, and the affected local government offices.
- (22) The consolidated local government shall establish an affirmative action appeals board for purposes of hearing appeals from any final decision relating to matters pertaining to this section. The board shall be composed of the county attorney, or his or her designee, the council president of the consolidated local government, or his or her designee, and a representative of the financial department of the consolidated local government, or his or her designee.
- (23) Any appeal from a decision of the consolidated local government shall be hand-delivered or mailed by certified mail to the affirmative action appeals board not later than thirty (30) days from the date of the local government's decision. The appeal shall set forth the grounds for the appeal. The appeals board shall notify all parties in writing of the time and place of a hearing. The hearing committee may issue subpoenas for any witnesses requested by either of the parties or in the appeals board's opinion necessary to the proper disposition of the matter to be heard. All parties shall be allowed legal representation, witnesses may be cross-examined, and the proceeding shall be recorded. The local government shall transmit, within ten (10) days after receipt of notice of appeal, all the original papers in action to the appeals board.
- (24) The appeals board shall have the power to require the contractor to furnish all necessary records and give testimony as to enable the board to render a fair and competent decision. The duty of the board shall be to review all records, hear all

testimonies of witnesses, and determine whether the decision of the local government was correct. The decision of the appeals board shall be final. The decision of the appeals board shall be transmitted in writing to the appropriate offices of the local government for implementation and shall set forth specifically its findings of fact and conclusions relative to its determination. The administration of sanctions and penalties in accordance with that determination shall be the duty of the appropriate department or contracting agency of the consolidated local government.

- (25) (a) On request of the adversely affected party the appeals board may, on terms as are just, relieve a party from its final order of determination on the following grounds:
1. Mistake, inadvertence, surprise, or excusable neglect;
 2. Newly discovered evidence that by due diligence could not have been discovered in time for the hearing;
 3. Perjury or falsified evidence; or
 4. Fraud affecting the proceedings other than perjury or falsified evidence.
- (b) The request shall be made within thirty (30) days after notification of the appeals board's final determination. A request under this subsection does not affect the finality of the order or determination or suspend its operation.
- (26) In accordance with the enforcement provisions of this section, the consolidated local government may cancel, terminate, suspend, or cause to be canceled, terminated, or suspended, any contract, lease, or agreement that is the subject matter of this section for failure of the contractor or vendor to comply. Contracts, leases, and agreements may be canceled, terminated, or suspended absolutely or continuance of contracts, leases, and agreements may be conditioned on a program for future compliance as approved by the consolidated local government.
- (27) Any contracting agency shall refrain from entering into further contracts or

extensions or other modifications of existing contracts, with any noncomplying contractor, until the contractor has established and will carry out personnel and employment policies in compliance with the provisions of this section.

- (28) Whenever the consolidated local government makes a determination regarding noncompliance by a contractor pursuant to this section, it shall promptly notify the appropriate contracting agency and other affected local government agencies and offices of the action recommended. The contracting agency shall take the action recommended and shall report the results of that action to the consolidated local government.
- (29) If the appeals board shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this order or submits a program for compliance acceptable to the consolidated local government.

➔Section 224. KRS 78.510 is amended to read as follows:

As used in KRS 78.510 to 78.852, unless the context otherwise requires:

- (1) "System" means the County Employees Retirement System;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- (3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (4) "School board" means any board of education participating in the system by order

appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

- (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- (6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.510 to 78.852;
- (7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

- (12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (13) "Creditable compensation" means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall

also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4). For employees who begin participating on or after September 1, 2008, creditable compensation shall not include payments for compensatory time. Creditable compensation shall not include training incentive payments for city officers paid as set out in KRS 64.5277 to 64.5279;

(14) "Final compensation" means:

- (a) For a member who begins participating before September 1, 2008, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
- (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the

funding for this paragraph shall be provided from existing funds of the retirement allowance;

- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
 - (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years shall be used; or
 - (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked

up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who begin participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.510 to 78.852;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefits limits as set out in 26 U.S.C. sec. 415;
- (20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.510 to 78.852;
- (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean

all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed nine (9) months, except for employees of school boards, in which case the period of time shall not exceed six (6) months;
 - (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or
 - (d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;
- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
- (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary

- documents for retirement benefits and is no longer contributing to the system;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (27) "Person" means a natural person;
- (28) "School term or year" means the twelve (12) months from July 1 through the following June 30;
- (29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

- (31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615;
- (32) "Month" means a calendar month;
- (33) "Membership date" means the date upon which the member began participating in the system as provided in KRS 78.615;
- (34) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (23) of this section;
- (35) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
- (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or matrimonial~~marital~~ property rights to an alternate payee;
- (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (37) "Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597; and
- (38) "Accumulated account balance" means:
- (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
 - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit.

➔Section 225. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.716 and 161.990:

- (1) "Retirement system" means the arrangement provided for in KRS 161.220 to 161.716 and 161.990 for payment of allowances to members;
- (2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;
- (3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;
- (4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, employees participating in the system pursuant to KRS 196.167(3)(b)1., and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:
 - (a) Local boards of education;
 - (b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;
 - (c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;
 - (d) The Education Professional Standards Board, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;
 - (e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;
 - (f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational

Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

- (g) Employees of the Council on Postsecondary Education who were employees of the Department for Adult Education and Literacy and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600;
- (h) The Office of Career and Technical Education, except that the executive director shall not be a member;
- (i) The Office of Vocational Rehabilitation;
- (j) The Kentucky Educational Collaborative for State Agency Children;
- (k) The Governor's Scholars Program;
- (l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;
- (m) Employees of the former Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System

shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the former Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;

- (n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance, and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the former Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620;
- (o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the former Cabinet for Workforce Development and the commissioners of the former Department for Adult Education and Literacy and the former Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000; and
- (p) Employees of the Kentucky Department of Education only who are graduates

of a four (4) year college or university, notwithstanding a substitution clause within a job classification, and who are serving in a professional job classification as defined by the department.

- (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);
- (6) "New teacher" means any member not a present teacher;
- (7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;
- (8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;
- (9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average

salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

- (a) The member's actual salary; or
- (b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave if the individual becomes a member before July 1, 2008, or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

- (10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no

circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation. For an individual who becomes a member on or after July 1, 2008, annual compensation shall not include lump-sum payments upon termination of employment for accumulated annual or compensatory leave;

- (11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;
- (12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;
- (13) "Regular interest" means interest at three percent (3%) per annum, except for an individual who becomes a member on or after July 1, 2008, "regular interest" means interest at two and one-half percent (2.5%) per annum for purposes of crediting

- interest to the teacher savings account or any other contributions made by the employee that are refundable to the employee upon termination of employment;
- (14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up member contributions as described in KRS 161.540(2), plus accrued regular interest;
- (15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;
- (16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;
- (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;
- (18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;
- (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;
- (20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;
- (21) "Full-time" means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;
- (22) "Full actuarial cost," when used to determine the payment that a member must pay

for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400;

- (23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the most recent period of contributing service, either consecutive or nonconsecutive, that is sufficient to provide the member with one (1) full year of service credit in the Kentucky Teachers' Retirement System, and which compensation is used in calculating the member's initial retirement allowance, excluding bonuses, retirement incentives, payments for accumulated sick, annual, personal and compensatory leave, and any other lump-sum payment. For an individual who becomes a member on or after July 1, 2008, payments for annual or compensatory leave shall not be included in determining the member's last annual compensation;
- (24) "Participant" means a member, as defined by subsection (4) of this section, or an annuitant, as defined by subsection (15) of this section;
- (25) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
- (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or matrimonial~~marital~~ property rights to an alternate payee; and
- (26) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order.

➔Section 226. KRS 197.420 is amended to read as follows:

- (1) The department shall have the sole authority and responsibility for establishing by regulation the design of the specialized program created in KRS 197.400 to 197.440.
- (2) The program shall include diagnostic and treatment services in both inpatient and outpatient environments:
 - (a) "Diagnostic services" shall include social and family histories, medical history, educational development, interpersonal development, criminal history, psychological screening, and pre-release evaluation;
 - (b) "Treatment services" shall include individualized treatment plans to include individual, group, matrimonial~~marital~~, and family counseling; psychoeducational courses to include sex education and victim personalization; and social skills development to include assertiveness training, stress management, and aggression management; and
 - (c) The department shall have the authority and responsibility for establishing other educational and work programs necessary to complement treatment program objectives.
- (3) The department may transfer sexual offenders sentenced to its custody to the program and shall adopt administrative regulations concerning the transfer of sexual offenders.
- (4) All sexual offenders participating in the program may be housed separately from all other incarcerated inmates but shall be housed in accordance with the department's standard classification system.
- (5) The treatment staff of the program shall minimumly consist of the following staff:
 - (a) A program director who has at least a master's degree in a recognized mental health field and six (6) years' clinical experience or a doctoral degree in a recognized mental health field and four (4) years' clinical experience. The director shall decide program policies and supervise all staff;

- (b) A clinical psychologist or a master's degree level psychologist for each two hundred (200) participants. At least one (1) clinical psychologist shall be a member of the staff at all times; and
- (c) A counselor for each fifty (50) participants.
- (6) The department shall establish a system of data collection and program evaluation so as to allow study of participating sexual offenders and their offenses and to measure the impact of the program on recidivism.

➔Section 227. KRS 304.12-013 is amended to read as follows:

- (1) The purpose of this section is to prohibit unfair or deceptive practices in the transaction of life and health insurance with respect to the human immunodeficiency virus infection and related matters. This section applies to all life and health insurance contracts which are delivered or issued for delivery in Kentucky on or after July 13, 1990.
- (2) This section shall not prohibit an insurer from contesting the validity of an insurance contract or whether a claim is covered under an insurance contract to the extent allowed by law.
- (3) As used in this section:
 - (a) "Human immunodeficiency virus" (HIV) means the causative agent of acquired immunodeficiency syndrome (AIDS) or any other type of immunosuppression caused by the human immunodeficiency virus;
 - (b) "Insurance contract" means a contract issued by an insurer as defined in this section; and
 - (c) "Insurer" means an insurer, a nonprofit hospital, medical-surgical, dental, and health service corporation, a health maintenance organization, or a prepaid dental plan organization.
- (4) (a) In the underwriting of an insurance contract regarding human immunodeficiency virus infection and health conditions derived from such

infection, the insurer shall utilize medical tests which are reliable predictors of risk. Only a test which is recommended by the Centers for Disease Control or by the Food and Drug Administration is deemed to be reliable for the purposes of this section. If a specific Centers for Disease Control or Food and Drug Administration-recommended test indicates the existence or possible existence of human immunodeficiency virus infection or a health condition related to the human immunodeficiency virus infection, before relying on a single test to deny issuance of an insurance contract, limit coverage under an insurance contract, or to establish the premium for an insurance contract, the insurer shall follow the applicable Centers for Disease Control or Food and Drug Administration-recommended test protocol and shall utilize any applicable Centers for Disease Control or Food and Drug Administration-recommended follow-up tests or series of tests to confirm the indication.

- (b) Prior to testing, the insurer shall disclose in writing its intent to test the applicant for the human immunodeficiency virus infection or for a specific health condition derived therefrom and shall obtain the applicant's written informed consent to administer the test. Written informed consent shall include a fair explanation of the test, including its purpose, potential uses and limitations, the meaning of its results, and the right to confidential treatment of information. Use of a form prescribed by the department shall raise a conclusive presumption of informed consent.
- (c) An applicant shall be notified of a positive test result by a physician designated by the applicant, or, in the absence of such designation, by the Cabinet for Health and Family Services. The notification shall include:
 - 1. Face-to-face post-test counseling on the meaning of the test results, the possible need for additional testing, and the need to eliminate behavior which might spread the disease to others;

2. The availability in the geographic area of any appropriate health-care services, including mental health care, and appropriate social and support services;
 3. The benefits of locating and counseling any person by whom the infected person may have been exposed to human immunodeficiency virus and any person whom the infected person may have exposed to the virus; and
 4. The availability, if any, of the services of public health authorities with respect to locating and counseling any person described in subparagraph 3. of this paragraph.
- (d) A medical test for human immunodeficiency virus infection or for a health condition derived from the infection shall only be required or given to an applicant for an insurance contract on the basis of the applicant's health condition or health history, on the basis of the amount of insurance applied for, or if the test is required of all applicants.
- (e) An insurer may ask whether an applicant for an insurance contract has been tested positive for human immunodeficiency virus infection or other health conditions derived from such infection. Insurers shall not inquire whether the applicant has been tested for or has received a negative result from a specific test for human immunodeficiency virus infection or for a health condition derived from such infection.
- (f) Insurers shall maintain strict confidentiality of the results of tests for human immunodeficiency virus infection or a specific health condition derived from human immunodeficiency virus infection. Information regarding specific test results shall be disclosed only as required by law or pursuant to a written request or authorization by the applicant. Insurers may disclose results pursuant to a specific written request only to the following persons:

1. The applicant;
 2. A licensed physician or other person designated by the applicant;
 3. An insurance medical-information exchange under procedures that are used to assure confidentiality, such as the use of general codes that also cover results of tests for other diseases or conditions not related to human immunodeficiency virus infection;
 4. For the preparation of statistical reports that do not disclose the identity of any particular applicant;
 5. Reinsurers, contractually retained medical personnel, and insurer affiliates if these entities are involved solely in the underwriting process and under procedures that are designed to assure confidentiality;
 6. To insurer personnel who have the responsibility to make underwriting decisions; and
 7. To outside legal counsel who needs the information to represent the insurer effectively in regard to matters concerning the applicant.
- (g) Insurers shall use for the processing of human immunodeficiency virus-related tests only those laboratories that are certified by the United States Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1967, which permit testing of specimens in interstate commerce, and which subject themselves to ongoing proficiency testing by the College of American Pathologists, the American Association of Bioanalysts, or an equivalent program approved by the Centers for Disease Control.
- (5) (a) An insurance contract shall not exclude coverage for human immunodeficiency virus infection. An insurance contract shall not contain benefit provisions, terms, or conditions which apply to human immunodeficiency virus infection in a different manner than those which apply to any other health condition. Insurance contracts which violate this

paragraph shall be disapproved by the commissioner pursuant to KRS 304.14-130(1)(a), 304.32-160, and 304.38-050.

- (b) A health insurance contract shall not be canceled or nonrenewed solely because a person or persons covered by the contract has been diagnosed as having or has been treated for human immunodeficiency virus infection.
- (c) Sexual orientation shall not be used in the underwriting process or in the determination of which applicants shall be tested for exposure to the human immunodeficiency virus infection. Neither the matrimonial~~marital~~ status, the living arrangements, the occupation, the gender, the beneficiary designation, nor the zip code or other territorial classification of an applicant's sexual orientation.
- (d) This subsection does not prohibit the issuance of accident only or specified disease insurance contracts.

➔Section 228. KRS 304.15-075 is amended to read as follows:

- (1) The commissioner shall develop a notice by promulgation of administrative regulation to inform the owner of a policy of life insurance issued in this state of his or her rights as an owner of a life insurance policy. The notice shall be made available free of charge to insurance companies and life insurance producers, and shall be written in nontechnical language.
- (2) The notice developed under subsection (1) of this section shall:
 - (a) Inform the consumer that life insurance is a critical part of a broader financial plan;
 - (b) Inform the consumer that alternatives to lapse or surrender of the policy exist;
 - (c) Provide the consumer with a general description of life settlements and state that life settlements are a regulated transaction in Kentucky;
 - (d) Provide the consumer with a general description of other common products and services that may be available to owners of life insurance policies prior to

- lapse or surrender of a policy; and
- (e) Include a statement that advises recipients of the notice that life insurance, life settlements, or any of the products or services described in the notice may or may not be available to the recipient depending on a number of circumstances, including but not limited to the age and health of the insured or the terms of a life insurance policy. The statement shall also advise recipients that owners of life insurance policies are encouraged to contact their financial advisor, agent, or broker to seek further assistance or advice.
- (3) For each policy issued, the life insurance company shall provide the notice required by subsection (1) of this section to the owner of an individual life insurance policy:
- (a) When the insured is sixty (60) years of age or older; or
 - (b) If the insurer has been notified that the insured person under the policy is terminally or chronically ill, upon the occurrence of one (1) of the following:
 1. The life insurance company receives from the owner a request to surrender, in whole or in part, an individual policy;
 2. The life insurance company receives from the owner a request to receive an accelerated death benefit under an individual policy;
 3. The life insurance company sends to the owner all notices of lapse of an individual policy; provided, however, that the life insurance company shall not be required to include the notice developed pursuant to subsection (1) of this section to the owner of the policy more than one (1) time within a twelve (12) month period from the date of the first notice of lapse of the policy; or
 4. The occurrence of any other event as set forth by the commissioner in administrative regulation.
- (4) In addition to the conditions set forth in subsection (3) of this section, the commissioner may promulgate administrative regulations to establish that the notice

be made only with respect to policies with a net death benefit that is one hundred thousand dollars (\$100,000) or greater, if the commissioner finds that this additional condition is in the best interest of the citizens of the Commonwealth and does not discriminate against owners of life insurance policies based on other factors such as race, religion, national origin, age, disability, matrimonial~~[marital]~~ status, or economic means.

➔Section 229. KRS 304.20-040 is amended to read as follows:

(1) As used in this section:

(a) "Policy" means an automobile liability insurance policy, delivered or issued for delivery in this state, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

1. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others; and
2. Any other four-wheel motor vehicle with a load capacity of one thousand five hundred (1,500) pounds or less which is not used in the occupation, profession, or business of the insured; provided, however, that this section shall not apply:
 - a. To any policy issued under an automobile assigned risk plan; or
 - b. To any policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards;

(b) "Automobile liability insurance policy" includes only coverage for bodily injury and property damage liability, basic reparations benefits, and the provisions therein, if any, relating to medical payments, uninsured motorists coverage, underinsured motorists coverage, and automobile physical damage coverage;

- (c) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than three (3) months shall for the purpose of this section be considered as if written for a policy period or term of three (3) months. Provided, further, that any policy written for a term longer than one (1) year or any policy with no fixed expiration date, shall for the purpose of this section, be considered as if written for successive policy periods or terms of one (1) year, and the policy may be terminated at the expiration of any annual period upon giving seventy-five (75) days' notice of nonrenewal prior to the anniversary date;
- (d) "Nonpayment of premium" means failure of the named insured to discharge when due any of his or her obligations in connection with the payment of premiums on a policy, or any installment of the premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit;
- (e) "Declination" or "decline" means either the refusal of an insurer to issue an automobile liability insurance policy upon receipt of a written nonbinding application or written request for coverage from its agent or an applicant, or refusal of an agent to transmit to an insurer a written nonbinding application or written request for coverage received from an applicant. The offering of insurance coverage with a company within an insurance group that is different from the company requested on the nonbinding application or written request for coverage, or the offering of insurance upon different terms than requested in the nonbinding application or written request for coverage, shall be considered to be a declination; and

- (f) "Agent" includes but is not limited to surplus lines broker.
- (2) (a) A notice of cancellation of a policy shall be effective only if it is based on one (1) or more of the following reasons:
 - 1. Nonpayment of premium;
 - 2. The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty (180) days immediately preceding its effective date;
 - 3. Discovery of fraud or material misrepresentation made by or with the knowledge of the named insured in obtaining the policy, continuing the policy, or in presenting a claim under the policy;
 - 4. Discovery of willful acts or omissions on the part of the named insured that increase any hazard insured against; or
 - 5. A determination by the commissioner that the continuation of the policy would place the insurer in violation of this chapter or the rules or administrative regulations of the commissioner.
- (b) This subsection shall not apply to any policy or coverage which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.
- (c) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars (\$100) shall not be deemed a cancellation of the coverage or of the policy.
- (d) This subsection shall not apply to nonrenewal.
- (3) No notice of cancellation of a policy to which subsection (2) of this section applies shall be effective unless mailed or delivered by the insurer to the named insured at

least twenty (20) days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium, at least fourteen (14) days' notice of cancellation accompanied by the reason therefor shall be given. This subsection shall not apply to renewals. A policy or coverage which has been in effect less than sixty (60) days at the time the notice of cancellation is mailed or delivered by the insurer is not limited to the reasons for cancellation set forth in subsection (2)(a) of this section unless it is a renewal policy. Notice of cancellation for a policy that has been in effect for less than sixty (60) days shall be mailed or delivered to the named insured at least fourteen (14) days in advance of the effective cancellation date.

- (4) No insurer or agent shall decline, refuse to renew, or cancel a policy of automobile insurance solely because:
- (a) Of the credit history, lack of credit history, or the following extraordinary life circumstances that directly influence the credit history of the applicant or insured:
1. Catastrophic event, as declared by the federal or state government;
 2. Serious illness or injury, or serious illness or injury to an immediate family member;
 3. Death of a spouse, child, or parent;
 4. Divorce or involuntary interruption of legally owed alimony or support payments;
 5. Identity theft;
 6. Temporary loss of employment for a period of three (3) months or more, if it results from involuntary termination;
 7. Military deployment overseas; or
 8. Other events, as determined by the insurer;
- (b) The applicant or insured has previously obtained automobile coverage through

- a residual market mechanism or from a carrier providing nonstandard coverage;
- (c) The applicant or insured has sustained one (1) or more losses that immediately result from a natural cause without the intervention of any person and that could not have been prevented by the exercise of prudence, diligence, and care;
 - (d) Of the race, religion, nationality, ethnic group, age, sex, or matrimonial~~marital~~ status of the applicant or named insured; or
 - (e) Another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured.
- (5) No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least seventy-five (75) days' advance notice of its intention not to renew. If notice is not provided, coverage shall be deemed to be renewed for the ensuing policy period upon payment of the appropriate payment under the same terms and conditions, until the named insured has accepted replacement coverage with another insurer, or until the named insured has agreed to the nonrenewal.
- (6) The transfer of a policyholder between companies within the same insurance group shall be considered a nonrenewal.
- (7) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of the renewal.
- (8) If the insurer has manifested its willingness to renew by mailing or delivering a renewal notice, bill, certificate, or policy to the first-named insured at his or her last known address at least thirty (30) days before the end of the current policy period with the amount of the renewal premium charge and its due date clearly set forth therein, then the policy shall expire and terminate without further notice to the insured on the due date, unless the renewal premium is received by the insurer or its

authorized agent on or before that date. When any policy terminates pursuant to this subsection because the renewal premium was not received on or before the due date, the insurer shall, within fifteen (15) days, deliver or mail to the first-named insured at his or her last known address a notice that the policy was not renewed and the date on which the coverage under it ceased to exist.

- (9) (a) Proof of mailing of renewal premium to the insurer or its agent, when authorized, on or before the due date, shall constitute a presumption of receipt pursuant to subsection (8) of this section.
- (b) Proof of mailing of notice of cancellation or of intention not to renew or of reasons for cancellation or nonrenewal to the named insured at the address shown in the policy shall be sufficient proof of notice.
- (10) No insurer shall impose or request an additional premium higher than its standard premium for automobile insurance, cancel or refuse to issue a policy, or refuse to renew a policy solely because the insured or the applicant is an individual with a disability, so long as the disability does not substantially impair the person's mechanically assisted driving ability.
- (11) When an automobile liability insurance policy is canceled other than for nonpayment of premium, or in the event of failure to renew a policy of automobile liability insurance, the insurer shall notify the named insured of his or her possible eligibility for automobile liability insurance coverage through the Kentucky automobile assigned risk plan. The notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew. The notice shall also inform the insured that he or she may, within seven (7) days, request the commissioner in writing to determine whether there is sufficient reason to cancel or not to renew the policy. Upon receipt of a request from the insured, the commissioner may request additional information regarding the cancellation or nonrenewal of a policy from the insurer. An insurer shall respond to a request for

information from the commissioner within seven (7) days from receipt of the request. Within fourteen (14) days of receiving a written request from the insured, the commissioner shall send his or her findings to the insurer and to the insured. If an insurer fails to respond to a request for additional information within seven (7) days from receipt of the request, the commissioner may make a finding in favor of the insured. When he or she sends findings, the commissioner shall notify both parties of their right to request a hearing under KRS 304.2-310(2)(b) and KRS Chapter 13B. The party requesting the hearing shall give the commissioner written confirmation of attendance at the hearing not more than five (5) days before, nor less than forty-eight (48) hours before, the scheduled hearing. If the requesting party fails to give the required written confirmation, the commissioner shall cancel the hearing.

- (12) The reason for nonrenewal or cancellation shall accompany or be included in the notice of nonrenewal or cancellation.
- (13) Except where the maximum limits of coverage have been purchased, every notice of first renewal shall include a provision or be accompanied by a notice stating in substance that added uninsured motorists, underinsured motorists, and personal injury protection coverages may be purchased by the insured.
- (14) There shall be no liability on the part of and no cause of action of any nature shall arise against the commissioner or against any insurer, its authorized representative, its agents, its employees, or any firm, person, or corporation furnishing to the insurer information as to reasons for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or in any other communication, oral or written, specifying the reasons for cancellation or nonrenewal, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.
- (15) (a) If the commissioner determines that an insurer has violated any provision of

this section, the commissioner may require the insurer to:

1. Accept the application or written request for insurance coverage at a rate and on the same terms and conditions as are available to other risks similarly situated;
2. Reinstate insurance coverage to the end of the policy period; or
3. Continue insurance coverage at a rate and on the same terms and conditions as are available to other risks similarly situated.

(b) As to any person who has violated any provisions of this section, the commissioner may:

1. Issue a cease and desist order to restrain the person from engaging in practices that violate this section;
2. Suspend or revoke the person's license or certificate of authority;
3. Assess a civil penalty against the person in accordance with KRS 304.99-020; or
4. Take any combination of the actions specified in this paragraph.

➔Section 230. KRS 304.20-340 is amended to read as follows:

The declination or termination of a policy of insurance subject to KRS 304.20-300 to 304.20-350 by an insurer or agent is prohibited if the declination or termination is:

- (1) Based solely upon the race, religion, nationality, ethnic group, age, sex, or matrimonial~~marital~~ status of the applicant or named insured;
- (2) Based solely upon the lawful occupation or profession of the applicant or named insured, except that this provision shall not apply to an insurer which limits its market to one (1) lawful occupation or profession or to several related lawful occupations or professions or to an insurer that does not provide the kind of insurance sought by the applicant;
- (3) Based solely upon the age or location of the residence or property of the applicant or named insured, unless such decision is for a business purpose which is not a mere

- pretext for unfair discrimination;
- (4) Based solely upon the fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured;
 - (5) Based solely upon the fact that the applicant or named insured previously obtained insurance through a residual market mechanism;
 - (6) Based solely upon the fact that the applicant or named insured has previously obtained property or casualty insurance from a carrier providing nonstandard coverage; or
 - (7) Based solely upon the fact that the applicant or named insured has sustained one (1) or more losses that immediately result from a natural cause without the intervention of any person and that could not have been prevented by the exercise of prudence, diligence, and care.

➔Section 231. KRS 311.710 is amended to read as follows:

The General Assembly of the Commonwealth of Kentucky hereby finds and declares:

- (1) That it is in the interest of the people of the Commonwealth of Kentucky that every precaution be taken to insure the protection of every viable unborn child being aborted, and every precaution be taken to provide life-supportive procedures to insure the unborn child its continued life after its abortion; and
- (2) That currently, in the Commonwealth, there is inadequate legislation to protect the life, health and welfare of pregnant women and unborn human life; and
- (3) That it is in the interest of the people of the Commonwealth of Kentucky to maintain accurate statistical data to aid in providing proper maternal health regulations.
- (4) It is the intention of the General Assembly of the Commonwealth of Kentucky to assure the integrity and autonomy of a woman's decision whether to submit to an abortion or to carry her child to term, to protect the rights and interests of a minor

incompetent woman and her parents in the context of abortion, to further the Commonwealth's compelling interest in protecting the formal integrity of the matrimonial~~marital~~ relation and the procreative rights and interests of the husband, and to provide for the development of statistical data. The General Assembly finds as fact that the rights and interests furthered by this chapter are not secure in the context in which abortion is presently performed.

- (5) It is the present intention of the General Assembly to protect the valid and compelling interests of the Commonwealth and its inhabitants without unduly burdening a woman's constitutional privacy rights as delineated by the courts. If, however, the United States Constitution is amended or relevant judicial decisions are reversed or modified, the declared policy of this Commonwealth to recognize and to protect the lives of all human beings regardless of their degree of biological development shall be fully restored.

➔Section 232. KRS 381.225 is amended to read as follows:

- (1) (a) A future interest or trust is void if it suspends the power of alienation for longer than the permissible period. The power of alienation is the power to convey to another an absolute fee in possession of land, or full ownership of personalty. The permissible period is within twenty-one (21) years after the death of an individual or individuals then alive.
- (b) If the settlor of an inter vivos trust has an unlimited power to revoke, the permissible period is computed from the termination of that power.
- (c) If a future property interest or trust is created by exercise of a power of appointment, the permissible period is computed from the time the power is exercised if the power is a general power exercisable in favor of the donee, the donee's estate, the donee's creditors, or the creditors of the donee's estate, whether or not it is exercisable in favor of others, and even if the general power is exercisable only by will; in the case of other powers, the permissible

period is computed from the time the power is created but facts at the time the power is exercised are considered in determining whether the power of alienation is suspended beyond the death of an individual or individuals alive at the time of creation of the power plus twenty-one (21) years.

- (2) The power of alienation is suspended when there are no persons who, alone or in combination with others, can convey an absolute fee in possession of land, or full ownership of personalty.
- (3) There is no suspension of the power of alienation by a trust or by equitable interests under a trust if the trustee has power to sell, either expressed or implied, or if there is a power to terminate the trust by distributing the property subject to the trust to the beneficiaries in fee simple in one (1) or more persons then living.
- (4) This section does not apply to limit any of the following:
 - (a) Transfers, outright or in trust, for charitable purposes;
 - (b) Transfers to one (1) or more charitable organizations as described in 26 U.S.C. secs. 170(c), 2055(a), and 2522(a), or any similar statute;
 - (c) A future interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of:
 1. A prematrimonial~~[premarital]~~ or postmatrimonial~~[post-marital]~~ agreement;
 2. A separation or divorce settlement;
 3. An arrangement similar to subparagraph 1. or 2. of this paragraph arising out of a prospective, existing, or previous matrimonial~~[marital]~~ relationship between the parties;
 4. A contract to make or revoke a will or trust;
 5. A contract to exercise or not to exercise a power of appointment;
 6. A transfer in satisfaction of a duty of support; or

7. A reciprocal transfer;
- (d) A transfer to a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for one (1) or more employees, independent contractors, or their beneficiaries or spouses, to which contributions are made for the purposes of distributing to or for the benefit of the participants or their beneficiaries or spouses the property, income, or principal in the trust or other property arrangement; or
- (e) A property interest, power of appointment, or arrangement that was not subject to the common law rule against perpetuities or is excluded by another statute of this Commonwealth.

➔Section 233. KRS 382.337 is amended to read as follows:

Any party to a deed or the attorney who prepared the deed or other persons with personal knowledge may execute and file with the county clerk his or her affidavit to correct or supplement information regarding the matrimonial~~marital~~ status of any party to a deed, or to supplement or correct information contained in or absent from the acknowledgment or notary portion of a deed, and for no other purpose. Nothing in this section is intended to replace any existing statutory requirement regarding the execution and filing of deeds. The affidavit shall contain the name, address, and signature of the person who prepared the instrument as required by KRS 382.335.

➔Section 234. KRS 386.175 is amended to read as follows:

- (1) For the purposes of this section, the following definitions apply:
 - (a) "Current beneficiary" means a person who is a permissible distributee of trust income or principal;
 - (b) "Original trust" means a trust established under an irrevocable trust instrument pursuant to the terms of which a trustee has discretionary power to distribute principal or income of the trust to or for the benefit of one (1) or more current

beneficiaries of the trust; and

- (c) "Second trust" means a trust established under an irrevocable trust instrument, the current beneficiaries of which are one (1) or more of the current beneficiaries of the original trust. The second trust may be a trust created under the same trust instrument as the original trust or under a different trust instrument.
- (2) A trustee of an original trust may, without authorization by the court, exercise the discretionary power to distribute principal or income to or for the benefit of one (1) or more current beneficiaries of the original trust by appointing all or part of the principal or income of the original trust subject to the power in favor of the trustee of a second trust. The trustee of the original trust may exercise this power whether or not there is a current need to distribute principal or income under any standard provided in the terms of the original trust. The trustee's special power to appoint trust principal or income in further trust under this section includes the power to create the second trust.
- (3) The second trust may be a trust created or administered under the laws of any jurisdiction, within or without the United States.
- (4) The terms of the second trust shall be subject to all of the following:
- (a) The beneficiaries of the second trust may include only beneficiaries of the original trust;
- (b) A beneficiary who has only a future beneficial interest, vested or contingent, in the original trust cannot have the future beneficial interest accelerated to a present interest in the second trust;
- (c) The terms of the second trust may not reduce any fixed income, annuity, or unitrust interest of a beneficiary in the assets of the original trust, including an interest which is to take effect in the future;
- (d) If any contribution to the original trust qualified for a matrimonial~~marital~~ or

charitable deduction for federal income, gift, or estate tax purposes under the Internal Revenue Code, then the second trust shall not contain any provision that, if included in the original trust, would have prevented the original trust from qualifying for the deduction or that would have reduced the amount of the deduction;

- (e) If contributions to the original trust have been excluded from the gift tax by the application of Sections 2503(b) and 2503(c) of the Internal Revenue Code, then the second trust shall provide that the beneficiary's remainder interest in the contributions shall vest and become distributable no later than the date upon which the interest would have vested and become distributable under the terms of the original trust;
- (f) If any beneficiary of the original trust has a currently exercisable power of withdrawal over trust property, then either:
 - a. The terms of the second trust shall provide a power of withdrawal in the second trust identical to the power of withdrawal in the original trust; or
 - b. Sufficient trust property shall remain in the original trust to satisfy the currently exercisable power of withdrawal;
- (g) If the original trust holds stock of an S corporation, the terms of the second trust shall not prevent or eliminate an election to be a qualified subchapter S trust or an electing small business trust or result in the termination of the S election of such corporation;
- (h) If the power to distribute principal or income in the original trust is subject to an ascertainable standard, then the power to distribute income or principal in the second trust shall be subject to the same or a more restrictive ascertainable standard as in the original trust when the trustee exercising the power described in subsection (2) of this section is a possible beneficiary under the standard; and

- (i) The second trust may confer a power of appointment upon a beneficiary of the original trust to whom or for the benefit of whom the trustee has the power to distribute principal or income of the original trust. The permissible appointees of the power of appointment conferred upon a beneficiary may include persons who are not beneficiaries of the original or second trust. The power of appointment conferred upon a beneficiary shall be subject to KRS 381.224, 381.225, and 381.226 covering the time at which the permissible period of the rule against perpetuities and suspension of power of alienation begins and the law that determines the permissible period of the rule against perpetuities and suspension of power of alienation of the original trust.
- (5) The court may appoint a special fiduciary with the authority to exercise the power to appoint principal or income under subsection (2) of this section.
- (6) The exercise of the power to appoint principal or income under subsection (2) of this section:
 - (a) Shall be considered an exercise of a power of appointment, other than a power to appoint to the trustee, the trustee's creditors, the trustee's estate, or the creditors of the trustee's estate;
 - (b) Shall be subject to KRS 381.224, 381.225, and 381.226 covering the time at which the permissible period of the rule against perpetuities and suspension of power of alienation begins and the law that determines the permissible period of the rule against perpetuities and suspension of power of alienation of the original trust; and
 - (c) Is not prohibited by a spendthrift provision or by a provision in the original trust instrument that prohibits amendment or revocation of the trust.
- (7) To effect the exercise of the power to appoint principal or income under subsection (2) of this section, all of the following shall apply:
 - (a) The exercise of the power to appoint shall be made by an instrument in

writing, signed and acknowledged by the trustee, setting forth the manner of the exercise of the power, including the terms of the second trust and the effective date of the exercise of the power. The instrument shall be filed with the records of the original trust;

- (b) The trustee shall give written notice of the trustee's intention to exercise the power to all current beneficiaries of the original trust and all beneficiaries of the oldest generation of remainder beneficiaries of the first trust, by certified mail with restricted delivery and return receipt, at least sixty (60) days prior to the effective date of the exercise of the power to appoint. The notice shall include a copy of the instrument described in paragraph (a) of this subsection;
 - (c) If all beneficiaries entitled to notice have received the notice as evidenced by the certified mail return receipt and waive the notice period by a signed written instrument delivered to the trustee, the trustee's power to appoint principal or income shall be exercisable after notice is waived by all such beneficiaries, notwithstanding the effective date of the exercise of the power;
 - (d) A current beneficiary or a beneficiary who is not a current beneficiary but is a member of the oldest generation of the remainder beneficiaries of the original trust may, no later than thirty (30) days from the date of receiving notice under paragraph (b) of this subsection, commence a judicial proceeding pursuant to KRS 386B.2-010 to object to the proposed exercise of the power under subsection (2) of this section. In such case the proposed exercise of the power shall require consent of the court; and
 - (e) In the event that a beneficiary did not receive the notice as evidenced by the certified mail return receipt, and no other beneficiary has commenced a proceeding under paragraph (d) of this subsection, the trustee may seek the approval of the District Court to exercise the power.
- (8) Nothing in this section shall be construed to create or imply a duty of the trustee to

exercise the power to distribute principal or income, and no inference of impropriety shall be made as a result of a trustee not exercising the power to appoint principal or income conferred under subsection (2) of this section. Nothing in this section shall be construed to abridge the right of any trustee who has the power to appoint property in further trust that arises under the terms of the original trust or under any provision of law or under common law.

- (9) This section shall not apply to any charitable remainder trust as defined in 26 U.S.C. sec. 664(d).
- (10) A trustee or beneficiary may commence a judicial proceeding pursuant to KRS 386B.2-010 to approve or disapprove of a proposed exercise of the trustee's special power to appoint to a second trust pursuant to subsection (2) of this section.

➔Section 235. KRS 386B.5-020 is amended to read as follows:

- (1) As used in this section, unless the context otherwise requires, "spendthrift trust" means a trust in which by the terms of the instrument creating it a valid restraint on the voluntary and involuntary alienation of the interest of a beneficiary is imposed.
- (2) Estates of every kind held or possessed in trust shall be subject to the debts and charges of the beneficiaries thereof the same as if the beneficiaries also owned the similar legal interest in the property, unless the trust is a spendthrift trust.
- (3) Specific language shall not be necessary to create a spendthrift trust, and it shall be sufficient if the instrument creating the trust manifests an intention to create a spendthrift trust.
- (4) If an instrument creating a trust provides that a beneficiary is entitled to receive income of the trust and that his interest shall not be alienable by him and shall not be subject to alienation by operation of law or legal process, the restraint on the voluntary and involuntary alienation of his right to income due and to accrue shall be valid.
- (5) If an instrument creating a trust provides that a beneficiary is entitled to receive

principal of the trust at a future time and that his interest shall not be alienable by him and shall not be subject to alienation by operation of law or legal process, the restraint on the voluntary and involuntary alienation of his right to principal shall be valid.

- (6) Although a trust is a spendthrift trust, the interest of the beneficiary shall be subject to the satisfaction of an enforceable claim against the beneficiary:
- (a) By the spouse or child of the beneficiary for support, or by the spouse for maintenance;
 - (b) If the trust is not a trust described in subsection (7)(b) of this section, by providers of necessary services rendered to the beneficiary or necessary supplies furnished to him; and
 - (c) By the United States or this Commonwealth for taxes due from him or her on account of his or her interest in the trust or the income therefrom.
- (7) (a) If a person creates for his or her own benefit a trust with a provision restraining the voluntary or involuntary alienation of his or her interest, his or her interest nevertheless shall be subject to alienation by operation of law or legal process.
- (b) This subsection shall not be construed to subject to alienation any interest in an individual retirement account or annuity, tax-sheltered annuity, simplified employee pension, pension, profit-sharing, stock bonus, or other retirement plan described in the Internal Revenue Code of 1986, as amended, which qualifies for the deferral of current income tax until the date benefits are distributed.
 - (c) For purposes of this subsection, a person has not created a trust for such person's own benefit solely because a trustee who is not such person is authorized under the trust instrument to pay or reimburse such person for, or pay directly to the taxing authorities, any tax on trust income or principal that

is payable by such person under the law imposing the tax.

- (8) (a) For the purposes of this section, amounts and property contributed to the following trusts are not deemed to have been contributed by the settlor of the trust, and a person who would otherwise be treated as a settlor or a deemed settlor of the following trusts shall not be treated as a settlor:
1. An irrevocable inter vivos matrimonial~~marital~~ trust that is treated as qualified terminable interest property under 26 U.S.C. sec. 2523(f), as amended, if the settlor is a beneficiary of the trust after the death of the settlor's spouse;
 2. An irrevocable inter vivos matrimonial~~marital~~ trust that is treated as a general power of appointment trust under 26 U.S.C. sec. 2523(e), as amended, if the settlor is a beneficiary of the trust after the death of the settlor's spouse;
 3. An irrevocable inter vivos trust for the spouse of the settlor that does not qualify for the gift tax marital deduction if the settlor is a beneficiary of the trust only after the death of the settlor's spouse;
 4. A special needs trust as defined in KRS 387.860, including a trust established pursuant to judicial action under KRS 387.855;
 5. A trust created under 42 U.S.C. sec. 1396p(d)(4)(A) or (C); and
 6. A trust created under 42 U.S.C. sec. 1396p(c)(2)(B).
- (b) For the purposes of this subsection, a person is a beneficiary whether so named under the initial trust instrument or through the exercise by that person's spouse or by another person of a limited or general power of appointment.
- (c) For the purposes of this section, the settlor shall be any person who:
1. Created the trust;
 2. Contributed property to the trust; or

3 Is deemed to have contributed property to the trust.

➔Section 236. KRS 391.360 is amended to read as follows:

(1) A written provision for a nonprobate transfer on death in an insurance policy, contract of employment, bond, mortgage, promissory note, certified or uncertified security account agreement, custodial agreement, deposit agreement, compensation plan, pension plan, individual retirement plan, employee benefit plan, trust, conveyance, deed of gift, matrimonial~~marital~~ property agreement, or other written instrument of a similar nature is nontestamentary. These written provisions shall include, but not be limited to, written provisions which provide that:

- (a) Money or other benefits due to, controlled, or owned by a decedent before death shall be paid after the decedent's death to a person whom the decedent designates either in the instrument or in a separate writing, including a will, executed before, at the same time, or after the instrument is executed;
- (b) Money due or to become due under the instrument shall cease to be payable in the event of the death of the promisee or the promisor before payment or demand; or
- (c) Any property, controlled by or owned by the decedent before death, which is the subject of the instrument shall pass to a person the decedent designates either in the instrument or in a separate writing, including a will, executed before, at the same time, or after the instrument is executed.

(2) This section shall not limit the rights of creditors under other laws of this state.

➔Section 237. KRS 454.275 is amended to read as follows:

A court may exercise personal jurisdiction over a person whose matrimonial~~marital~~ domicile is in Kentucky, and who, for the purpose of avoiding support and maintenance of his minor children, removes himself from the jurisdiction of the court. In such cases service may be had as provided in KRS 454.210 and 454.270.

➔Section 238. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

- (1) "Action" includes all proceedings in any court of this state;
- (2) "Animal" includes every warm-blooded living creature except a human being;
- (3) "Attorney" means attorney-at-law;
- (4) "Bequeath" and "devise" mean the same thing;
- (5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;
- (6) "Business trust" includes, except when utilized in KRS Chapter 386, a "statutory trust" as organized under KRS Chapter 386A;
- (7) "Case plan" means an individualized accountability and behavior change strategy for supervised individuals that:
 - (a) Targets and prioritizes the specific criminal risk factors of the individual based upon his or her assessment results;
 - (b) Matches the type and intensity of supervision and treatment conditions to the individual's level of risk, criminal risk factors, and individual characteristics, such as gender, culture, motivational stage, developmental stage, and learning style;
 - (c) Establishes a timetable for achieving specific behavioral goals, including a schedule for payment of victim restitution, child support, and other financial obligations; and
 - (d) Specifies positive and negative actions that will be taken in response to the supervised individual's behaviors;
- (8) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;
- (9) "Certified mail" means any method of governmental, commercial, or electronic delivery that allows a document or package to have proof of:
 - (a) Sending the document or package;
 - (b) The date the document or package was delivered or delivery was attempted;

and

- (c) The signature of the receipt of the document or package;
- (10) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;
- (11) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;
- (12) "Criminal risk factors" are characteristics and behaviors that, when addressed or changed, affect a person's risk for committing crimes. The characteristics may include but are not limited to the following risk and criminogenic need factors: antisocial behavior; antisocial personality; criminal thinking; criminal associates; dysfunctional family; low levels of employment or education; poor use of leisure and recreation; and substance abuse;
- (13) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;
- (14) "Directors," when applied to corporations, includes managers or trustees;
- (15) "Domestic," when applied to a corporation, partnership, business trust, or limited liability company, means all those incorporated or formed by authority of this state;
- (16) "Domestic animal" means any animal converted to domestic habitat;
- (17) "Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism when implemented competently;
- (18) "Federal" refers to the United States;
- (19) "Foreign," when applied to a corporation, partnership, limited partnership, business trust, statutory trust, or limited liability company, includes all those incorporated or formed by authority of any other state;
- (20) "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National

Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;

- (21) "Graduated sanction" means any of a wide range of accountability measures and programs for supervised individuals, including but not limited to electronic monitoring; drug and alcohol testing or monitoring; day or evening reporting centers; restitution centers; disallowance of future earned compliance credits; rehabilitative interventions such as substance abuse or mental health treatment; reporting requirements to probation and parole officers; community service or work crews; secure or unsecure residential treatment facilities or halfway houses; and short-term or intermittent incarceration;
- (22) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;
- (23) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;
- (24) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;
- (25) "Legatee" and "devisee" convey the same idea;
- (26) "May" is permissive;
- (27) "Month" means calendar month;
- (28) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;
- (29) "Owner" when applied to any animal, means any person having a property interest in such animal;
- (30) "Partnership" includes both general and limited partnerships;
- (31) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and

- urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests;
- (32) "Penitentiary" includes all of the state penal institutions except the houses of reform;
- (33) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, joint stock companies, and limited liability companies;
- (34) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;
- (35) "Pretrial risk assessment" means an objective, research-based, validated assessment tool that measures a defendant's risk of flight and risk of anticipated criminal conduct while on pretrial release pending adjudication;
- (36) "Registered mail" means any governmental, commercial, or electronic method of delivery that allows a document or package to have:
- (a) Its chain of custody recorded in a register to enable its location to be tracked;
 - (b) Insurance available to cover its loss; and
 - (c) The signature of the recipient of the document or package available to the sender;
- (37) "Regular election" means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;
- (38) "Risk and needs assessment" or "validated risk and needs assessment" means an actuarial tool scientifically proven to determine a person's risk to reoffend and criminal risk factors, that when properly addressed, can reduce that person's likelihood of committing future criminal behavior;
- (39) "Shall" is mandatory;
- (40) "State" when applied to a part of the United States, includes territories, outlying

possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

- (41) "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;
- (42) "Supervised individual" means an individual placed on probation by a court or serving a period of parole or post-release supervision from prison or jail;
- (43) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;
- (44) "Treatment" when used in a criminal justice context, means targeted interventions that focus on criminal risk factors in order to reduce the likelihood of criminal behavior. Treatment options may include but shall not be limited to community-based programs that are consistent with evidence-based practices; cognitive-behavioral programs; faith-based programs; inpatient and outpatient substance abuse or mental health programs; and other available prevention and intervention programs that have been scientifically proven to produce reductions in recidivism when implemented competently. "Treatment" does not include medical services;
- (45) "United States" includes territories, outlying possessions, and the District of Columbia;

- (46) "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;
- (47) "Violate" includes failure to comply with;
- (48) "Will" includes codicils; "last will" means last will and testament;
- (49) "Year" means calendar year;
- (50) "City" includes town;
- (51) Appropriation-related terms are defined as follows:
- (a) "Appropriation" means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in KRS Chapter 48;
 - (b) "Appropriation provision" means a section of any enactment by the General Assembly which is not provided for by KRS Chapter 48 and which authorizes the expenditure of public funds other than by a general appropriation bill;
 - (c) "General appropriation bill" means an enactment by the General Assembly that authorizes the expenditure of public funds in a branch budget bill as provided for in KRS Chapter 48;
- (52) "Mediation" means a nonadversarial process in which a neutral third party encourages and helps disputing parties reach a mutually acceptable agreement. Recommendations by mediators are not binding on the parties unless the parties enter into a settlement agreement incorporating the recommendations;
- (53) "Biennium" means the two (2) year period commencing on July 1 in each even-numbered year and ending on June 30 in the ensuing even-numbered year;

(54) "Branch budget bill" or "branch budget" means an enactment by the General Assembly which provides appropriations and establishes fiscal policies and conditions for the biennial financial plan for the judicial branch, the legislative branch, and the executive branch, which shall include a separate budget bill for the Transportation Cabinet;

(55) "AVIS" means the automated vehicle information system established and maintained by the Transportation Cabinet to collect titling and registration information on vehicles and boats and information on holders of motor vehicle operator's licenses and personal identification cards;~~and~~

(56) "Cooperative," except in KRS Chapter 272, includes a limited cooperative association;

(57) "Father-in-law," "mother-in-law," "son-in-law," "daughter-in-law," "brother-in-law," or "sister-in-law" means the father, mother, son, daughter, brother, or sister of one's spouse;

(58) "Husband" means the male party to a matrimony;

(59) "Matrimonial" means of or related to the civil institution of matrimony;

(60) "Matrimony" has the same meaning as in Section 11 of this Act;

(61) "Spouse" means either party to a matrimony;

(62) "Wedlock" means the state of being in a matrimony;

(63) "Widow" or "widower" means the surviving spouse of parties to a matrimony;

and

(64) "Wife" means the female party to a matrimony.

➔Section 239. KRE 0504 is amended to read as follows:

(a) Spousal testimony. The spouse of a party has a privilege to refuse to testify against the party as to events occurring after the date of their matrimony~~[marriage]~~. A party has a privilege to prevent his or her spouse from testifying against the party as to events occurring after the date of their matrimony~~[marriage]~~.

- (b) Matrimonial~~[Marital]~~ communications. An individual has a privilege to refuse to testify and to prevent another from testifying to any confidential communication made by the individual to his or her spouse during their matrimony~~[marriage]~~. The privilege may be asserted only by the individual holding the privilege or by the holder's guardian, conservator, or personal representative. A communication is confidential if it is made privately by an individual to his or her spouse and is not intended for disclosure to any other person.
- (c) Exceptions. There is no privilege under this rule:
- (1) In any criminal proceeding in which the court determines that the spouses conspired or acted jointly in the commission of the crime charged;
 - (2) In any proceeding in which one (1) spouse is charged with wrongful conduct against the person or property of:
 - (A) The other;
 - (B) A minor child of either;
 - (C) An individual residing in the household of either; or
 - (D) A third person if the wrongful conduct is committed in the course of wrongful conduct against any of the individuals previously named in this sentence; or
 - (3) In any proceeding in which the spouses are adverse parties.
- (d) Minor child. The court may refuse to allow the privilege in any proceeding if the interests of a minor child of either spouse may be adversely affected.

➔Section 240. KRE 0506 is amended to read as follows:

- (a) Definitions. As used in this rule:
- (1) A "counselor" includes:
 - (A) A certified school counselor who meets the requirements of the Kentucky Board of Education and who is duly appointed and regularly employed for the purpose of counseling in a public or private school of

this state;

- (B) A sexual assault counselor, who is a person engaged in a rape crisis center, as defined in KRS Chapter 421, who has undergone forty (40) hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault;
 - (C) A certified professional art therapist who is engaged to conduct art therapy under KRS 309.130 to 309.1399;
 - (D) A licensed matrimony~~marriage~~ and family therapist as defined in KRS 335.300 who is engaged to conduct matrimony~~marriage~~ and family therapy pursuant to KRS 335.300 to 335.399;
 - (E) A licensed professional clinical counselor or a licensed professional counselor associate as defined in KRS 335.500;
 - (F) An individual who provides crisis response services as a member of the community crisis response team or local community crisis response team under KRS 36.250 to 36.270;
 - (G) A victim advocate as defined in KRS 421.570 except a victim advocate who is employed by a Commonwealth's attorney under KRS 15.760 or a county attorney pursuant to KRS 69.350; and
 - (H) A Kentucky licensed pastoral counselor as defined in KRS 335.605 who is engaged to conduct pastoral counseling under KRS 335.600 to 335.699.
- (2) A "client" is a person who consults or is interviewed or assisted by a counselor for the purpose of obtaining professional or crisis response services from the counselor.
 - (3) A communication is "confidential" if it is not intended to be disclosed to third persons, except persons present to further the interest of the client in the

consultation or interview, persons reasonably necessary for the transmission of the communication, or persons present during the communication at the direction of the counselor, including members of the client's family.

- (b) General rule of privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling the client, between himself, his counselor, and persons present at the direction of the counselor, including members of the client's family.
- (c) Who may claim the privilege. The privilege may be claimed by the client, his guardian or conservator, or the personal representative of a deceased client. The person who was the counselor (or that person's employer) may claim the privilege in the absence of the client, but only on behalf of the client.
- (d) Exceptions. There is no privilege under this rule for any relevant communication:
 - (1) If the client is asserting his physical, mental, or emotional condition as an element of a claim or defense; or, after the client's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.
 - (2) If the judge finds:
 - (A) That the substance of the communication is relevant to an essential issue in the case;
 - (B) That there are no available alternate means to obtain the substantial equivalent of the communication; and
 - (C) That the need for the information outweighs the interest protected by the privilege. The court may receive evidence in camera to make findings under this rule.

➔Section 241. KRE 0803 is amended to read as follows:

The following are not excluded by the hearsay rules, even though the declarant is available as a witness:

- (1) Present sense impression. A statement describing or explaining an event or

condition made while the declarant was perceiving the event or condition, or immediately thereafter.

- (2) Excited utterance. A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.
- (3) Then existing mental, emotional, or physical condition. A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.
- (4) Statements for purposes of medical treatment or diagnosis. Statements made for purposes of medical treatment or diagnosis and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to treatment or diagnosis.
- (5) Recorded recollection. A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not be received as an exhibit unless offered by an adverse party.
- (6) Records of regularly conducted activity. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other

qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

- (A) Foundation exemptions. A custodian or other qualified witness, as required above, is unnecessary when the evidence offered under this provision consists of medical charts or records of a hospital that has elected to proceed under the provisions of KRS 422.300 to 422.330, business records which satisfy the requirements of KRE 902(11), or some other record which is subject to a statutory exemption from normal foundation requirements.
 - (B) Opinion. No evidence in the form of an opinion is admissible under this paragraph unless such opinion would be admissible under Article VII of these rules if the person whose opinion is recorded were to testify to the opinion directly.
- (7) Absence of entry in records kept in accordance with the provisions of paragraph (6). Evidence that a matter is not included in the memoranda, reports, records, or data compilations, in any form, kept in accordance with the provisions of paragraph (6), to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or other data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.
- (8) Public records and reports. Unless the sources of information or other circumstances indicate lack of trustworthiness, records, reports, statements, or other data compilations in any form of a public office or agency setting forth its regularly conducted and regularly recorded activities, or matters observed pursuant to duty imposed by law and as to which there was a duty to report, or factual findings resulting from an investigation made pursuant to authority granted by law. The

following are not within this exception to the hearsay rule:

- (A) Investigative reports by police and other law enforcement personnel;
 - (B) Investigative reports prepared by or for a government, a public office, or an agency when offered by it in a case in which it is a party; and
 - (C) Factual findings offered by the government in criminal cases.
- (9) Records of vital statistics. Records or data compilations, in any form, of births, fetal deaths, deaths, matrimonies, or marriages, if the report thereof was made to a public office pursuant to requirements or law.
- (10) Absence of public record or entry. To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with KRE 902, or testimony, that diligent search failed to disclose the record, report, statement, or data compilation, or entry.
- (11) Records of religious organizations. Statements of births, matrimonies, marriages, divorces, deaths, legitimacy, ancestry, relationships by blood, matrimony, or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.
- (12) Marriage, matrimony, baptismal, and similar certificates. Statements of fact contained in a certificate that the maker performed a marriage, matrimony, or other ceremony or administered a sacrament, made by a clergyman, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.
- (13) Family records. Statements of births, marriages, matrimonies, divorces, deaths, legitimacy, ancestry, relationship by blood, matrimony, or marriage, or other similar facts of personal or family history contained in family Bibles, genealogies,

charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones, or the like.

- (14) Records of documents affecting an interest in property. The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorizes the recording of documents of that kind in that office.
- (15) Statements in documents affecting an interest in property. A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.
- (16) Statements in ancient documents. Statements in a document in existence twenty (20) years or more the authenticity of which is established.
- (17) Market reports, commercial publications. Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations.
- (18) Learned treatises. To the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence but may not be received as exhibits.
- (19) Reputation concerning personal or family history. Reputation among members of a person's family by blood, adoption, matrimony, or marriage, or among a person's associates, or in the community, concerning a person's birth, adoption, matrimony,

marriage, divorce, death, legitimacy, relationship by blood, adoption, matrimony, or marriage, ancestry, or other similar fact of his personal or family history.

- (20) Reputation concerning boundaries or general history. Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or state or nation in which located.
- (21) Reputation as to character. Reputation of a person's character among associates or in the community.
- (22) Judgment of previous conviction. Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment under the law defining the crime, to prove any fact essential to sustain the judgment, but not including, when offered by the prosecution in a criminal case for purposes other than impeachment, judgments against persons other than the accused.
- (23) Judgment as to personal, family, or general history, or boundaries. Judgments as proof of matters of personal, family, or general history, or boundaries, essential to the judgment, if the same would be provable by evidence of reputation.

➔Section 242. KRE 0804 is amended to read as follows:

- (a) Definition of unavailability. "Unavailability as a witness" includes situations in which the declarant:
 - (1) Is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement;
 - (2) Persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so;
 - (3) Testifies to a lack of memory of the subject matter of the declarant's statement;
 - (4) Is unable to be present or to testify at the hearing because of death or then

existing physical or mental illness or infirmity; or

- (5) Is absent from the hearing and the proponent of the statement has been unable to procure the declarant's attendance by process or other reasonable means.

A declarant is not unavailable as a witness if his exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.

- (b) Hearsay exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

- (1) Former testimony. Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.
- (2) Statement under belief of impending death. In a criminal prosecution or in a civil action or proceeding, a statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be his impending death.
- (3) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

- (4) Statements of personal or family history.
- (A) A statement concerning the declarant's own birth, adoption, matrimony, marriage, divorce, legitimacy, relationship by blood, adoption, matrimony, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or
- (B) A statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, matrimony, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.
- (5) Forfeiture by wrongdoing. A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

➔SECTION 243. A NEW SECTION OF KRS CHAPTER 446 IS CREATED TO READ AS FOLLOWS:

If a court of proper jurisdiction holds any provision of KRS Chapter 402A or 402B invalid, and if all appeals of that holding have been exhausted, then all provisions of KRS Chapters 402A and 402B become void and unenforceable, and all amendments to existing sections of the Kentucky Revised Statutes under this Act are nullified. In this case, the Reviser of Statutes is instructed to delete those amendments from the statutes. However, regardless of a holding of invalidity of any provision of KRS Chapter 402A or 402B, the repeals of sections of the Kentucky Revised Statutes under this Act remain effective, and those sections remain repealed.

➔Section 244. This Act may be cited as the Kentucky Matrimonial Freedom Act.

➔Section 245. The following KRS sections are repealed:

402.005 Definition of marriage.

- 402.010 Degree of relationship that will bar marriage.
- 402.020 Other prohibited marriages.
- 402.030 Courts may declare certain marriages void.
- 402.040 Marriage in another state.
- 402.045 Same-sex marriage in another jurisdiction void and unenforceable.
- 402.050 Who may solemnize marriage -- Persons present.
- 402.070 Marriage not invalid for want of authority to solemnize.
- 402.080 Marriage license required -- Who may issue.
- 402.090 Soliciting persons to be married by particular person -- Sharing remuneration --
Solicitation by minister or justice of the peace.
- 402.100 Marriage license -- Marriage certificate -- Confidentiality of Social Security
numbers.
- 402.105 Marriage license valid for thirty days.
- 402.110 Marriage license to be uniform and completely filled out.
- 402.210 Issuance of license when either party under eighteen.
- 402.220 Return of license and certificate to clerk after ceremony.
- 402.230 Filing of marriage certificate -- Record of marriages.
- 402.240 County judge/executive to issue license in absence of clerk.
- 402.250 Circuit Court may affirm or avoid marriage.
- 402.260 Receivership for person under eighteen who marries without judicial consent.
- 402.270 Marriage manual -- Preparation by Human Resources Coordinating
Commission for distribution to marriage applicants.
- 402.310 Sickle Cell Disease Detection Act.
- 402.320 Marriage license applicants to be tested for trait or genetically transmitted
disease affecting hemoglobin -- Counseling carriers.
- 402.340 Secretary for Health and Family Services to administer and enforce Sickle Cell
Disease Detection Act.

402.990 Penalties.