

1 AN ACT relating to workplace violence.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO
4 READ AS FOLLOWS:

5 *The General Assembly finds a compelling public interest in protecting workplaces from*
6 *workplace violence by providing employers with a voluntary option of seeking an order*
7 *of protection for a workplace when an employer or employee has been threatened with,*
8 *or has been the target of, workplace violence.*

9 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO
10 READ AS FOLLOWS:

11 *As used in Sections 1 to 9 of this Act:*

12 *(1) "Employee" means any person employed by or suffered or permitted to work for*
13 *an employer;*

14 *(2) "Employer" has the same meaning as in KRS 337.010;*

15 *(3) "Foreign protective order" means any judgment, decree, or order of protection*
16 *which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265;*

17 *(4) "Order of protection" means an emergency protective order or workplace*
18 *violence protective order and includes a foreign protective order;*

19 *(5) "Respondent" means a person or persons accused of engaging in the alleged act*
20 *or acts complained of in a petition;*

21 *(6) "Workplace" means any property that is owned, leased, or controlled by the*
22 *employer at which the employer's official business is conducted and at which one*
23 *(1) or more of the employer's employees perform their employment duties; and*

24 *(7) "Workplace violence" means knowingly causing or threatening to cause bodily*
25 *injury or significant damage to the property of an employer or employee while the*
26 *employee is performing his or her employment duties at a workplace. Threats*
27 *must be of a nature that would put a reasonable person in fear of imminent*

1 danger.

2 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO
3 READ AS FOLLOWS:

4 (1) A petition for an order of protection may be filed by an employer or an attorney
5 acting with the authorization of the employer.

6 (2) Before seeking an order of protection, if the employer has knowledge that a
7 specific employee is the target of workplace violence, or has knowledge of a
8 current or former intimate or spousal relationship between the employee and the
9 person alleged to have committed workplace violence, the employer shall make a
10 good-faith effort to notify the employee that an order of protection is being sought
11 by the employer.

12 (3) The petition may be filed in the county of the workplace that is the target of
13 workplace violence or in which workplace violence is alleged to have occurred.

14 (4) The petition shall be verified and contain:

15 (a) The name and business address of the petitioner;

16 (b) The name and address of the person alleged to have committed workplace
17 violence;

18 (c) The facts and circumstances which constitute the basis for the petition;

19 (d) If the respondent is a current or former employee of the employer; and

20 (e) An acknowledgment that the notification described in subsection (2) of this
21 section has been made or a good-faith effort to make the notification has
22 been attempted.

23 (5) The petition shall be filed on a form prescribed by the Administrative Office of
24 the Courts and provided to the person seeking relief by the circuit clerk or by
25 another individual authorized by the court to provide and verify petitions in
26 emergency situations, such as law enforcement officers or Commonwealth's or
27 county attorneys.

1 (6) All petitions requested, completed, and signed by the employer or his or her
2 authorized attorney seeking protection under Sections 1 to 9 of this Act shall be
3 accepted and filed with the court.

4 (7) (a) Jurisdiction over petitions filed under this section shall be concurrent
5 between the District Court and Circuit Court, and a petition may be filed by
6 a petitioner in either court.

7 (b) The Court of Justice shall provide a protocol for twenty-four (24) hour
8 access to orders of protection in each county with any protocol, whether
9 statewide or local, being subject to Supreme Court review and approval of
10 the initial protocol and any subsequent amendments.

11 (c) The Court of Justice may authorize by rule that petitions in a specific
12 county be filed in accordance with a supplemental jurisdictional protocol
13 adopted for that county. This protocol may provide for petitions to be filed
14 in or transferred to a court other than those specified in paragraph (a) of
15 this subsection.

16 (8) If the judge of a court in which there is a pending request for modification or
17 enforcement of an existing order of protection is unavailable or unable to act
18 within a reasonable time, the proceedings may be conducted by any judge of the
19 county in accordance with court rules.

20 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO
21 READ AS FOLLOWS:

22 (1) (a) The court shall review a petition for an order of protection immediately
23 upon its filing. If the review indicates that workplace violence has occurred,
24 the court shall summon the parties to an evidentiary hearing not more than
25 fourteen (14) days in the future. If the review indicates that such a basis
26 does not exist, the court may consider an amended petition or dismiss the
27 petition without prejudice.

1 **(b) Service of the summons and hearing order under this subsection shall be**
2 **made upon the respondent personally and may be made in the manner and**
3 **by the persons authorized to serve subpoenas in accordance with the**
4 **Kentucky Rules of Civil Procedure. A summons may be reissued if service**
5 **has not been made on the respondent by the fixed court date and time.**

6 **(2) (a) If the review under this section also indicates the presence of an immediate**
7 **and present danger of workplace violence, the court may, upon the filing of**
8 **the petition, issue ex parte an emergency order of protection that:**

9 **1. Authorizes relief in accordance with Section 6 of this Act; and**
10 **2. Expires upon the conclusion of the evidentiary hearing required by**
11 **this section unless extended or withdrawn by subsequent order of the**
12 **court.**

13 **(b) If an order is not issued under this subsection, the court shall note on the**
14 **record the reason for not issuing the order.**

15 **(3) If the court issues a summons and hearing order, or issues ex parte an emergency**
16 **order of protection, the employer shall make a good-faith effort to notify any**
17 **employee described in subsection (2) of Section 3 of this Act.**

18 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO
19 READ AS FOLLOWS:

20 **(1) Prior to or at a hearing on a petition for an order of protection, the court may**
21 **obtain the respondent's Kentucky criminal and protective order history and utilize**
22 **that information to assess what relief may protect against danger to the petitioner**
23 **or other persons for whom protection is being sought. The information obtained**
24 **shall be provided to the parties in accordance with the Kentucky Rules of Civil**
25 **Procedure.**

26 **(2) (a) If the respondent is not present at the hearing ordered pursuant to**
27 **subsection (1)(a) of Section 4 of this Act and has not been served, a**

1 previously issued emergency order of protection shall remain in place, and
2 the court shall direct the issuance of a new summons for a hearing set not
3 more than fourteen (14) days in the future. If service has not been made on
4 the respondent before that hearing or a subsequent hearing, the emergency
5 order of protection shall remain in place, and the court shall continue the
6 hearing and issue a new summons with a new date and time for the hearing
7 to occur, which shall be within fourteen (14) days of the originally
8 scheduled date for the continued hearing. The court shall repeat the process
9 of continuing the hearing and reissuing a new summons until the
10 respondent is served in advance of the scheduled hearing. If service has not
11 been made on the respondent at least seventy-two (72) hours prior to the
12 scheduled hearing, the court may continue the hearing no more than
13 fourteen (14) days in the future. In issuing the summons, the court shall
14 simultaneously transmit a copy of the summons or notice of its issuance and
15 provisions to the petitioner.

16 (b) The provisions of this subsection permitting the continuance of an
17 emergency order of protection shall be limited to six (6) months from the
18 issuance of the emergency order of protection. If the respondent has not
19 been served within that period, the order shall be rescinded without
20 prejudice. Prior to the expiration of the emergency order of protection, the
21 court shall provide notice to the petitioner stating that, if the petitioner does
22 not file a new petition, the order shall be rescinded without prejudice.

23 (3) If an employee is participating in the order of protection filing process or
24 attending hearings as part of that process at the request of an employer, the
25 employer shall not require the employee to use any paid or unpaid leave to which
26 he or she is entitled.

27 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) Following a hearing ordered under subsection (1) of Section 4 of this Act, if a
3 court finds by clear and convincing evidence that workplace violence has
4 occurred and may again occur, the court may issue an order of protection
5 restraining the respondent from:

6 (a) Committing further acts of workplace violence;

7 (b) Threatening the petitioner or an employee of the petitioner while
8 performing the employee's duties in the workplace; or

9 (c) Going to or within a specified distance of the petitioner's workplace as
10 specifically described by the court.

11 Nothing in this subsection shall be interpreted to place any restriction or restraint
12 on the petitioner.

13 (2) An order of protection shall be effective for a period of time fixed by the court,
14 not to exceed three (3) years, and may be reissued upon expiration for subsequent
15 periods of up to three (3) years each. The fact that an order has not been violated
16 since its issuance may be considered by a court in hearing a request for a
17 reissuance of the order.

18 (3) If the court issues an order of protection, the employer shall make a good-faith
19 effort to notify any employee described in subsection (2) of Section 3 of this Act.

20 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO

21 READ AS FOLLOWS:

22 (1) An order of protection shall become effective and binding on the respondent
23 when the respondent is given notice of the existence and terms of the order by a
24 peace officer or the court or upon personal service of the order, whichever is
25 earlier. A peace officer or court giving notice of an unserved order shall make all
26 reasonable efforts to arrange for the order's personal service upon the
27 respondent. Once effective, a peace officer or the court may enforce the order's

1 terms and act immediately upon its violation.

2 (2) Costs, fees, or bond shall not be assessed against or required of a petitioner for
3 any filing, hearing, service, or order authorized by or required to implement
4 Sections 1 to 9 of this Act.

5 (3) (a) If a petition under Section 3 of this Act did not result in the issuance of an
6 order of protection under Section 6 of this Act, the court in which the
7 petition was heard may, for good cause shown, order the expungement of
8 the records of the case if:

9 1. Six (6) months have elapsed since the case was dismissed; and

10 2. During the six (6) months preceding the expungement request, the
11 respondent has not been bound by an order of protection issued for
12 the protection of any person or workplace.

13 (b) As used in this subsection, "expungement" has the same meaning as in KRS
14 431.079.

15 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO
16 READ AS FOLLOWS:

17 (1) Violation of the terms or conditions of an order of protection after the person has
18 been served or given notice of the order shall constitute contempt of court and a
19 criminal offense under this section. Once a criminal or contempt proceeding has
20 been initiated, the other shall not be undertaken regardless of the outcome of the
21 original proceeding.

22 (2) (a) Court proceedings for contempt of court for a violation of an order of
23 protection shall be held in the county where the order was issued or filed.

24 (b) Court proceedings for a criminal violation of an order of protection shall
25 follow the rules of venue applicable to criminal cases generally.

26 (3) Nothing in this section shall preclude the Commonwealth from prosecuting and
27 convicting the respondent of criminal offenses other than a violation of an order

1 of protection.

2 (4) (a) A person is guilty of a violation of an order of protection when he or she
 3 intentionally violates the provisions of an order of protection after the
 4 person has been served or given notice of the order.

5 (b) Violation of an order of protection is a Class A misdemeanor.

6 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO
 7 READ AS FOLLOWS:

8 (1) Nothing in Sections 1 to 9 of this Act shall:

9 (a) Be construed as creating a duty of care on the part of an employer to
 10 petition a court for an order of protection;

11 (b) Modify the obligations of employers and employees set forth in KRS
 12 338.031, except that nothing in Sections 1 to 9 of this Act shall obligate an
 13 employer to petition a court for an order of protection; or

14 (c) Be construed to prohibit an employee from petitioning a court for an order
 15 of protection under KRS Chapter 403 or KRS Chapter 456.

16 (2) The Department of Workplace Standards shall not consider an employer's
 17 decision not to petition a court for an order of protection to be a violation of KRS
 18 338.031.

19 ➔Section 10. KRS 336.130 is amended to read as follows:

20 (1) Employees may, free from restraint or coercion by the employers or their agents,
 21 associate collectively for self-organization and designate collectively
 22 representatives of their own choosing to negotiate the terms and conditions of their
 23 employment to effectively promote their own rights and general welfare.
 24 Employees, collectively and individually, may strike, engage in peaceful picketing,
 25 and assemble collectively for peaceful purposes, except that no public employee,
 26 collectively or individually, may engage in a strike or a work stoppage. Nothing in
 27 this statute and KRS 65.015, 67A.6904, 67C.406, 70.262, 78.470, 78.480, 336.132,

1 336.134, 336.180, 336.990, and 345.050 shall be construed as altering, amending,
2 granting, or removing the rights of public employees to associate collectively for
3 self-organization and designate collectively representatives of their own choosing to
4 negotiate the terms and conditions of their employment to effectively promote their
5 own rights and general welfare.

6 (2) Neither employers or their agents nor employees or associations, organizations or
7 groups of employees shall engage or be permitted to engage in unfair or illegal acts
8 or practices or resort to violence, intimidation, threats or coercion.

9 (3) (a) Notwithstanding subsection (1) of this section or any provision of the
10 Kentucky Revised Statutes to the contrary, no employee shall be required, as a
11 condition of employment or continuation of employment, to:

- 12 1. Become or remain a member of a labor organization;
- 13 2. Pay any dues, fees, assessments, or other similar charges of any kind or
14 amount to a labor organization; or
- 15 3. Pay to any charity or other third party, in lieu of these payments, any
16 amount equivalent to or pro rata portion of dues, fees, assessments, or
17 other charges required of a labor organization.

18 (b) As used in this subsection, the term "employee" means any person employed
19 by or suffered or permitted to work for a public or private employer.

20 (4) The secretary of the Education and Labor Cabinet or his or her representative shall
21 investigate complaints of violations or threatened violations of subsection (3) of this
22 section and may initiate enforcement of a criminal penalty by causing a complaint
23 to be filed with the appropriate local prosecutor and ensure effective enforcement.

24 (5) Except in instances where violence, **workplace violence**, personal injury, or damage
25 to property have occurred and such occurrence is supported by an affidavit **or a**
26 **petition seeking an order of protection** setting forth the facts and circumstances
27 surrounding such incidents, the employees and their agents shall not be restrained

1 or enjoined from exercising the rights granted them in subsection (1) of this section
2 without a hearing first being held, unless the employees or their agents are engaged
3 in a strike in violation of a "no strike" clause in their labor contract.

4 (6) Submission of a false affidavit or a petition for an order of protection concerning
5 violence, workplace violence, personal injury, or damage to property shall
6 constitute a violation of KRS 523.030. In the absence of any such affidavit or
7 petition alleging violence, workplace violence, personal injury, or damage
8 injunctions shall be issued only by a Circuit Judge or other justice or judge acting as
9 a Circuit Judge pursuant to law, except for an order of protection issued in
10 accordance with Section 3 of this Act.

11 ➔Section 11. If any provision of Section 9 of this Act is held to be
12 unconstitutional or invalid, that provision shall not be severable and the entirety of this
13 Act shall be invalidated, because it is the intention of the General Assembly that the
14 provisions of Section 9 of this Act are so essentially and inseparably connected with and
15 dependent upon every other provision of this Act that Sections 1 to 8 and 10 of this Act
16 would not have been enacted without the inclusion of Section 9 of this Act.

17 ➔Section 12. This Act takes effect on March 1, 2025.