

1 AN ACT relating to employer requirements for victims of domestic abuse.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 7 of this Act:*

6 *(1) "Dating violence and abuse" has the same meaning as in KRS 456.010;*

7 *(2) "Domestic violence and abuse" has the same meaning as in KRS 403.720;*

8 *(3) "Employee" means any individual employed by any employer, including but not*  
9 *limited to individuals employed by the state or any of its political subdivisions,*  
10 *instrumentalities, or instrumentalities of political subdivisions;*

11 *(4) "Employer" means any person, either individual, corporation, partnership,*  
12 *agency, or firm who employs an employee and includes any person, either*  
13 *individual, corporation, partnership, agency, or firm, including contractors and*  
14 *agencies acting directly or indirectly in the interest of an employer in relation to*  
15 *an employee;*

16 *(5) "Family member" means a spouse, including a former spouse, a grandparent, a*  
17 *grandchild, a parent, an adult sibling, a child, a stepchild, a member of an*  
18 *unmarried couple, or any other person living in the same household as a child if*  
19 *the child is the alleged victim;*

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

22 *(7) "Health care provider" means an individual licensed by any of the following:*

23 *(a) The Kentucky Board of Medical Licensure, pursuant to KRS Chapter 311;*

24 *(b) The Kentucky Board of Chiropractic Examiners, pursuant to KRS Chapter*  
25 *312;*

26 *(c) The Kentucky Board of Nursing, pursuant to KRS Chapter 314;*

27 *(d) The Kentucky Board of Physical Therapy, pursuant to KRS Chapter 327; or*

- 1        (e) The Kentucky Board of Occupational Therapy, pursuant to KRS Chapter  
2            319A;
- 3        (8) "Human trafficking" refers to criminal activity whereby one (1) or more persons  
4            are subjected to engaging in:
- 5            (a) Forced labor services; or  
6            (b) Commercial sexual activity through the use of force, fraud, or coercion,  
7            except that if the trafficked person is under the age of eighteen (18), the  
8            commercial sexual activity need not involve force, fraud, or coercion;
- 9        (9) "Intermittent leave" is leave taken in separate blocks of time due to a single  
10           qualifying reason;
- 11       (10) "Member of an unmarried couple" has the same meaning as in KRS 403.720;
- 12       (11) "Mental health professional" has the same meaning as in KRS 645.020;
- 13       (12) "Order of protection" means:
- 14           (a) Any interpersonal protective order, including those issued on a temporary  
15           basis;
- 16           (b) An emergency protective order;
- 17           (c) A domestic violence order; or  
18           (d) A foreign protective order;
- 19       (13) "Reduced leave schedule" means a leave schedule that reduces the usual number  
20           of hours per workweek, or hours per workday, of an employee;
- 21       (14) "Sexual assault" refers to conduct prohibited as any degree of rape, sodomy, or  
22           sexual abuse under KRS Chapter 510 or a criminal attempt, conspiracy,  
23           facilitation, or solicitation to commit any degree of rape, sodomy, or sexual  
24           abuse, or incest under KRS 530.020;
- 25       (15) "Stalking" refers to conduct prohibited as stalking under KRS 508.140 or  
26           508.150, or a criminal attempt, conspiracy, facilitation, or solicitation to commit  
27           the crime of stalking; and

1 (16) "Undue hardship" means an action requiring significant difficulty or expense.

2       ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
3 READ AS FOLLOWS:

4 An employer shall grant reasonable leave from work, intermittent leave, or leave on a  
5 reduced leave schedule, with or without pay for an employee to:

6 (1) Seek or obtain law enforcement assistance to ensure the health and safety of the  
7 employee or the employee's family members including but not limited to filing  
8 reports and signing statements;

9 (2) Seek or obtain legal assistance or remedies to ensure the health and safety of the  
10 employee or employee's family members including but not limited to obtaining or  
11 attempting to obtain an order of protection, and preparing for, or participating in,  
12 any civil or criminal legal proceeding related to or derived from dating violence  
13 and abuse, domestic violence and abuse, human trafficking, sexual assault, or  
14 stalking;

15 (3) Seek or obtain, or assist a family member in seeking or obtaining treatment by a  
16 health care provider or mental health professional for physical or mental injuries  
17 caused by dating violence and abuse, domestic violence and abuse, human  
18 trafficking, sexual assault, or stalking;

19 (4) Seek or obtain, or assist a family member in seeking or obtaining services from a  
20 domestic violence shelter, rape crisis center, or other social services program for  
21 relief from dating violence and abuse, domestic violence and abuse, human  
22 trafficking, sexual assault, or stalking; or

23 (5) Relocate, make security improvements to existing housing, or take other actions  
24 to increase the safety of the employee or employee's family members from future  
25 dating violence and abuse, domestic violence and abuse, human trafficking,  
26 sexual assault, or stalking.

27       ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO

1 READ AS FOLLOWS:

- 2 (1) As a condition of taking leave for any purpose described in Section 2 of this Act,  
3 an employee shall give an employer advance notice of the employee's intention to  
4 take leave. The timing of the advance notice shall be consistent with the  
5 employer's stated policy for requesting leave, if the employer has such a policy.
- 6 (2) When an employee cannot give an employer advance notice because of an  
7 emergency or unforeseen circumstance due to dating violence and abuse,  
8 domestic violence and abuse, human trafficking, sexual assault, or stalking, the  
9 employee or his or her designee must give notice to the employer within a  
10 reasonable time period given the circumstances.
- 11 (3) When an employee requests leave for any purpose described in Section 2 of this  
12 Act, the employer may require that the request be supported by verification that:  
13 (a) The employee or employee's family member is a victim of dating violence,  
14 domestic violence, human trafficking, sexual assault, or stalking; and  
15 (b) The leave taken was for one of the purposes described in Section 2 of this  
16 Act.
- 17 (4) If an employer requires verification, verification must be provided in a timely  
18 manner. In the event that advance notice of the leave cannot be given because of  
19 an emergency or unforeseen circumstance due to dating violence and abuse,  
20 domestic violence and abuse, human trafficking, sexual assault, or stalking, and  
21 the employer requires verification, verification must be provided to the employer  
22 within a reasonable time period during or after the leave.
- 23 (5) An employee or his or her designee may satisfy the verification requirement of  
24 this section by providing the employer with one or more of the following:  
25 (a) A police report indicating that the employee or employee's family member  
26 was a victim of dating violence and abuse, domestic violence and abuse,  
27 human trafficking, sexual assault, or stalking;

1 (b) A court order protecting or separating the employee or employee's family  
2 member from the perpetrator of the act of dating violence and abuse,  
3 domestic violence and abuse, human trafficking, sexual assault, or stalking,  
4 or other evidence from the court or the prosecuting attorney that the  
5 employee or employee's family member appeared, or is scheduled to appear  
6 in court in connection with an incident of dating violence and abuse,  
7 domestic violence and abuse, human trafficking, sexual assault, or stalking;

8 (c) Documentation that the employee or the employee's family member is a  
9 victim of dating violence and abuse, domestic violence and abuse, human  
10 trafficking, sexual assault, or stalking from any of the following persons  
11 from whom the employee or the employee's family member sought  
12 assistance in addressing the dating violence and abuse, domestic violence  
13 and abuse, human trafficking, sexual assault, or stalking:

14 1. An advocate for victims of dating violence and abuse, domestic  
15 violence and abuse, human trafficking, sexual assault, and stalking;

16 2. An attorney;

17 3. A member of the clergy;

18 4. A health care provider; or

19 5. A mental health professional; or

20 (d) An employee's written or signed statement that the employee or the  
21 employee's family member is a victim of dating violence and abuse,  
22 domestic violence and abuse, human trafficking, sexual assault, or stalking  
23 and that the leave taken was for one of the purposes described in Section 2  
24 of this Act.

25 (6) If the victim of dating violence and abuse, domestic violence and abuse, human  
26 trafficking, sexual assault, or stalking is the employee's family member,  
27 verification of the familial relationship between the employee and the victim may

1 include, but is not limited to, a statement from the employee, a birth certificate, a  
2 court document, or other similar documentation.

3 (7) An employee who is absent from work pursuant to Section 2 of this Act may elect  
4 to use the employee's paid time off or unpaid leave time.

5 (8) An employee is required to provide only the information enumerated in  
6 subsection (3) of this section to establish that the employee's leave is protected  
7 under this Act. An employer shall not require an employee to produce or discuss  
8 any information with the employer that is beyond the scope of subsection (3) of  
9 this section.

10 (9) Except as provided in subsection (10) of this section, an employer shall maintain  
11 the confidentiality of all information provided by the employee under this section,  
12 including the fact that the employee or employee's family member is a victim of  
13 dating violence and abuse, domestic violence and abuse, human trafficking,  
14 sexual assault, or stalking, that the employee has requested or obtained leave  
15 under this section, and any written, signed, or oral statement, documentation,  
16 record, or corroborating evidence provided by the employee.

17 (10) Information given by an employee may be disclosed by an employer only if:

18 (a) Requested or consented to by the employee;

19 (b) Ordered by a court or administrative agency; or

20 (c) Otherwise required by applicable federal or state law.

21 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
22 READ AS FOLLOWS:

23 (1) Upon an employee's return from leave consistent with Sections 2 and 3 of this  
24 Act, the employer shall:

25 (a) Restore the employee to the position of employment held by the employee  
26 when the leave commenced; or

27 (b) Restore the employee to an equivalent position with equivalent employment

1           benefits, pay, and other terms and conditions of employment.

2   (2) This section shall not apply if:

3           (a) The employment from which the employee takes leave is with a staffing  
4           company and the employee is assigned on a temporary basis to perform  
5           work at or services for another organization to support or supplement the  
6           other organization's workforce; or

7           (b) The employee was hired for a specific term, the employment term is over,  
8           and the employer would not otherwise have continued to employ the  
9           employee.

10   (3) To the extent allowed by law, an employer shall maintain coverage under any  
11   health insurance plan for an employee who takes leave under Section 2 of this  
12   Act. The employer shall maintain coverage for the duration of the leave at the  
13   level and under the conditions coverage would have been provided if the  
14   employee had not taken the leave.

15       ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
16 READ AS FOLLOWS:

17   (1) An employer shall make reasonable safety accommodations requested by an  
18   employee who is a victim of dating violence and abuse, domestic violence and  
19   abuse, human trafficking, sexual assault, or stalking, unless the employer can  
20   demonstrate that the accommodation would impose an undue hardship on the  
21   operation of the business of the employer. A reasonable safety accommodation  
22   may include, but is not limited to, a transfer, reassignment, modified schedule,  
23   changed work telephone number, changed work email address, changed  
24   workstation, installed lock, implemented safety procedure, and assistance in  
25   documenting dating violence and abuse, domestic violence and abuse, human  
26   trafficking, sexual assault, or stalking that occurs in the workplace.

27   (2) In creating the reasonable safety accommodations described in subsection (1) of

- 1        this section, the employer shall engage in a timely, good faith, and interactive  
2        process with the employee to determine effective reasonable accommodations,  
3        and shall consider exigent circumstances or dangers facing the employee.
- 4        (3) When an employee requests reasonable safety accommodations under this  
5        section, the employer may require that the request be supported by verification  
6        that:
- 7        (a) The employee or employee's family member is a victim of dating violence  
8        and abuse, domestic violence and abuse, human trafficking, sexual assault,  
9        or stalking; and
- 10       (b) The reasonable safety accommodation requested is in response to actual or  
11       threatened dating violence and abuse, domestic violence and abuse, human  
12       trafficking, sexual assault, or stalking;
- 13       (4) If an employer requires verification, verification must be provided in a timely  
14       manner.
- 15       (5) An employee or his or her designee may satisfy the verification requirement of  
16       this section by providing the employer with an employee's written or signed  
17       statement that the employee or the employee's family member is a victim of dating  
18       violence and abuse, domestic violence and abuse, human trafficking, sexual  
19       assault, or stalking and that the reasonable safety accommodation requested is in  
20       response to actual or threatened dating violence and abuse, domestic violence and  
21       abuse, sexual assault, or stalking.
- 22       (6) If the victim of dating violence and abuse, domestic violence and abuse, human  
23       trafficking, sexual assault, or stalking is the employee's family member,  
24       verification of the familial relationship between the employee and the victim may  
25       include, but is not limited to, a written or signed statement from the employee, a  
26       birth certificate, a court document, or other similar documentation.
- 27       (7) Except as provided in subsection (8) of this section, an employer shall maintain



1 the confidentiality of all information provided by the employee under this section,  
 2 including the fact that the employee or employee's family member is a victim of  
 3 dating violence and abuse, domestic violence and abuse, human trafficking,  
 4 sexual assault, or stalking, that the employee has requested or obtained leave  
 5 under this Act, and any written, signed, or oral statement, documentation, record,  
 6 or corroborating evidence provided by the employee.

7 (8) Information given by an employee may be disclosed by an employer only if:

8 (a) Requested or consented to by the employee;

9 (b) Ordered by a court or administrative agency; or

10 (c) Otherwise required by applicable federal or state law.

11 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
 12 READ AS FOLLOWS:

13 (1) An employer shall not discharge, threaten to discharge, demote, deny a  
 14 promotion to, sanction, discipline, retaliate against, harass, or otherwise  
 15 discriminate against an employee with respect to compensation, terms,  
 16 conditions, or privileges of employment because the employee:

17 (a) Is an actual or perceived victim of dating violence and abuse, domestic  
 18 violence and abuse, human trafficking, sexual assault, or stalking;

19 (b) Requested leave or reasonable safety accommodations under Sections 1 to 5  
 20 of this Act, regardless of whether the request was granted; or

21 (c) Assisted another employee's attempt to request leave or reasonable safety  
 22 accommodations in accordance with Sections 1 to 7 of this Act, regardless  
 23 of whether the request was granted.

24 (2) An employer shall not refuse to hire an otherwise qualified individual because  
 25 the individual is an actual or perceived victim of dating violence and abuse,  
 26 domestic violence and abuse, human trafficking, sexual assault, or stalking.

27 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO

1 READ AS FOLLOWS:

2 **(1) Notwithstanding other criminal and administrative remedies, a person or class of**  
3 **persons alleging a violation of Sections 1 to 7 of this Act may bring a civil action**  
4 **in the county where the plaintiff resides or has his or her principal place of**  
5 **business, against any person who is responsible or who knowingly participated in**  
6 **the violation.**

7 **(2) The civil action brought under subsection (1) of this section may be for:**

8 **(a) Appropriate injunctive relief;**

9 **(b) Actual damages;**

10 **(c) Actual expenses incurred, including court costs and attorney's fees; and**

11 **(d) Punitive damages.**

12 ➔Section 8. KRS 337.990 is amended to read as follows:

13 The following civil penalties shall be imposed by the Education and Labor Cabinet, in  
14 accordance with the provisions in KRS 336.985, for violations of the provisions of this  
15 chapter:

16 (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be  
17 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than  
18 one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the  
19 wages when due him under KRS 337.020 shall constitute a separate offense.

20 (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not  
21 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

22 (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not  
23 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)  
24 for each offense and shall make full payment to the employee by reason of the  
25 violation. Each failure to pay an employee the wages as required by KRS 337.055  
26 shall constitute a separate offense.

27 (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not

1 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)  
2 and shall also be liable to the affected employee for the amount withheld, plus  
3 interest at the rate of ten percent (10%) per annum.

4 (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil  
5 penalty of not less than one hundred dollars (\$100) nor more than one thousand  
6 dollars (\$1,000) for each offense and shall make full payment to the employee by  
7 reason of the violation.

8 (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty  
9 of not less than one hundred dollars (\$100) nor more than one thousand dollars  
10 (\$1,000) for each offense and each day that the failure continues shall be deemed a  
11 separate offense.

12 (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS  
13 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the  
14 commissioner or the commissioner's authorized representative in the performance  
15 of his or her duties under KRS 337.295, or fails to keep and preserve any records as  
16 required under KRS 337.320 and 337.325, or falsifies any record, or refuses to  
17 make any record or transcription thereof accessible to the commissioner or the  
18 commissioner's authorized representative shall be assessed a civil penalty of not  
19 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).  
20 A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for  
21 any subsequent violation of KRS 337.285(4) to (9) and each day the employer  
22 violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty.

23 (8) Any employer who pays or agrees to pay wages at a rate less than the rate  
24 applicable under KRS 337.275 and 337.285, or any wage order issued pursuant  
25 thereto shall be assessed a civil penalty of not less than one hundred dollars (\$100)  
26 nor more than one thousand dollars (\$1,000).

27 (9) Any employer who discharges or in any other manner discriminates against any

1 employee because the employee has made any complaint to his or her employer, to  
2 the commissioner, or to the commissioner's authorized representative that he or she  
3 has not been paid wages in accordance with KRS 337.275 and 337.285 or  
4 regulations issued thereunder, or because the employee has caused to be instituted  
5 or is about to cause to be instituted any proceeding under or related to KRS  
6 337.385, or because the employee has testified or is about to testify in any such  
7 proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345,  
8 and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than  
9 one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

10 (10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not  
11 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

12 (11) A person shall be assessed a civil penalty of not less than one hundred dollars  
13 (\$100) nor more than one thousand dollars (\$1,000) when that person discharges or  
14 in any other manner discriminates against an employee because the employee has:

15 (a) Made any complaint to his or her employer, the commissioner, or any other  
16 person; or

17 (b) Instituted, or caused to be instituted, any proceeding under or related to KRS  
18 337.420 to 337.433; or

19 (c) Testified, or is about to testify, in any such proceedings.

20 **(12) Any employer who violates Sections 1 to 7 of this Act shall be assessed a civil**  
21 **penalty of not less than one hundred dollars (\$100) nor more than one thousand**  
22 **dollars (\$1,000) for each offense. Each failure to grant requested leave or**  
23 **reasonable safety accommodation shall constitute a separate offense.**