

1 AN ACT relating to firearms.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 15 of this Act:*

6 *(1) "Extreme risk protection order" means any extreme risk protection order issued*
7 *by a District Court pursuant to Section 5 of this Act, including those issued on a*
8 *temporary basis under Section 3 of this Act, and including a foreign extreme risk*
9 *protection order filed under Section 13 of this Act;*

10 *(2) (a) "Law enforcement officer" means a sworn member of a lawfully organized*
11 *police unit or police force of a state, county, city, urban-county government,*
12 *charter county government, consolidated local government, or unified local*
13 *government who is responsible for the detection of crime and the*
14 *enforcement of the general criminal laws of the state, as well as a federal*
15 *police officer, sheriff, sworn deputy sheriff, or campus police officer who is*
16 *commissioned under KRS 164.950.*

17 *(b) "Law enforcement officer" does not include any constable, deputy*
18 *constable, Commonwealth detective under KRS 69.110, county detective*
19 *under KRS 69.360, special local peace officer, special law enforcement*
20 *officer, or auxiliary police officer;*

21 *(3) "Petitioner" means an individual who files a petition for an extreme risk*
22 *protection order under Sections 1 to 15 of this Act and is one (1) of the following*
23 *persons:*

24 *(a) A law enforcement officer;*

25 *(b) A county attorney;*

26 *(c) A person related to the respondent by blood, marriage, adoption, or*
27 *guardianship;*

- 1 (d) A person who has a child in common with the respondent;
2 (e) A current dating or intimate partner of the respondent;
3 (f) A person who regularly resides in the household of the respondent; or
4 (g) A qualified mental health professional, as defined by KRS 202A.011, who
5 has examined the respondent;

6 (4) "Respondent" means the person against whom an extreme risk protection order
7 is sought; and

8 (5) "Responsible party" means a person who:

- 9 (a) Does not cohabit with the respondent;
10 (b) May lawfully possess a firearm; and
11 (c) Is willing to enter into a written court agreement to accept the transfer of a
12 firearm as a responsible party under Section 9 of this Act.

13 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
14 READ AS FOLLOWS:

15 (1) A petitioner may file a petition for an extreme risk protection order.

16 (2) The petition shall be filed in the respondent's county of residence.

17 (3) The petition shall contain:

18 (a) The name and job title or rank of the petitioner;

19 (b) The name, age, address, and county of residence of the respondent, if
20 known;

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

22 (d) Descriptions of the number, types, and locations of any firearms presently
23 believed by the petitioner to be possessed or controlled by the respondent.

24 (4) The petition shall be filed on forms prescribed by the Administrative Office of the
25 Courts. The Administrative Office of the Courts shall make the form available to
26 petitioners on its website. The form shall also be available to petitioners in the
27 office of the District Court clerk.

1 (5) In all proceedings under Sections 3, 5, 8, and 10 of this Act, it shall be the duty of
2 the county attorney to assist the petitioner, to represent the interest of the
3 Commonwealth, and to assist the court in its inquiry by the presentation of
4 evidence.

5 (6) (a) The District Court shall have exclusive jurisdiction over extreme risk
6 protection orders.

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

11 (7) Any judge to whom a petition is referred under this section shall have full
12 authority to review and hear a petition and subsequently dismiss or grant and
13 enforce an extreme risk protection order.

14 (8) If the judge of the District Court in which there is a pending request for
15 termination, modification, or enforcement of an existing extreme risk protection
16 order is unavailable or unable to act within a reasonable time, the proceedings
17 may be conducted by any judge of the same judicial district in accordance with
18 court rules.

19 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
20 READ AS FOLLOWS:

21 (1) (a) The court shall review a petition for an extreme risk protection order
22 immediately upon its filing.

23 1. If the court finds there is probable cause that the respondent poses an
24 immediate and present danger of causing serious physical injury to
25 self or others by purchasing, possessing, receiving, or having in his or
26 her custody or control a firearm, the court shall, without prior notice
27 to the respondent, issue a temporary extreme risk protection order, set

1 a date for an evidentiary hearing within fourteen (14) days, and issue
2 a summons to the parties.

3 2. If the court finds there is not probable cause that the respondent poses
4 an immediate and present danger of causing serious physical injury to
5 self or others, the court may consider an amended petition supplying
6 new information or dismiss the petition without prejudice.

7 3. In reviewing the petition, the court shall consider the time that has
8 elapsed since the events described in the petition occurred.

9 (b) Service of the temporary extreme risk protection order, summons, and
10 hearing order under this subsection shall be personally served on the
11 respondent by a law enforcement officer. A summons may be reissued if
12 service has not been made on the respondent by the fixed court date and
13 time.

14 (2) A temporary extreme risk protection order shall:

15 (a) Prohibit the respondent from purchasing, possessing, receiving, or having
16 in his or her custody or control a firearm, or attempting to purchase or
17 receive a firearm until a hearing on issuing an extreme risk protection
18 order can be held under Section 5 of this Act;

19 (b) Order the surrender of the respondent's firearms under Section 9 of this Act
20 until a hearing to determine whether to issue an extreme risk protection
21 order can be held under Section 5 of this Act; and

22 (c) Include:

23 1. A statement that the respondent shall not purchase, possess, receive,
24 or have in his or her custody or control, or attempt to purchase or
25 receive, a firearm while the temporary order is in effect;

26 2. A description of the requirements for surrender of firearms under
27 Section 9 of this Act;

- 1 3. A statement of the grounds supporting the issuance of the temporary
 2 extreme risk protection order;
- 3 4. A notice of the hearing to determine whether to issue an extreme risk
 4 protection order, including the address of the court and the date and
 5 time when the hearing is scheduled;
- 6 5. A statement that the respondent may ask the court for an extension of
 7 time before the hearing to determine whether to issue an extreme risk
 8 protection order;
- 9 6. A statement that, whether the respondent attends the hearing or not,
 10 the court will rule on whether to convert the temporary order to an
 11 extreme risk protection order for a period not to exceed one (1) year,
 12 and that extreme risk protective orders are renewable under Section 8
 13 of this Act; and
- 14 7. A statement that the respondent may seek the advice of an attorney as
 15 to any matter connected with the order, and an attorney may be
 16 appointed for indigent respondents under Section 4 of this Act, with
 17 instructions on how the respondent can establish that he or she is an
 18 indigent person.

19 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
 20 READ AS FOLLOWS:

- 21 (1) Prior to or at a hearing to determine if an extreme risk protection order shall be
 22 issued, the court may obtain the respondent's criminal and protective order
 23 history. Any information obtained shall be provided to the petitioner and
 24 respondent in accordance with the Rules of Civil Procedure.
- 25 (2) The respondent may ask the court for an extension of time prior to the hearing to
 26 determine if an extreme risk protection order shall be issued.
- 27 (3) Prior to the hearing, the respondent may request that an attorney be appointed to

1 appear with the respondent at the hearing and in any subsequent motions for
2 termination. If the court determines pursuant to KRS Chapter 31 that the
3 respondent is indigent, the court shall appoint counsel within forty-eight (48)
4 hours to represent the indigent person. When it is necessary to appoint counsel,
5 the court shall endeavor to appoint private counsel, if available, to represent the
6 respondent, from a list of attorneys who have volunteered to represent these
7 respondents. The attorney for the respondent shall receive a fee to be fixed by the
8 court, not to exceed five hundred dollars (\$500). However, if no other method of
9 appointing counsel for the respondent is available, the respondent shall be
10 represented by counsel from the Department of Public Advocacy pursuant to KRS
11 Chapter 31.

12 (4) (a) If the respondent is not present at the hearing ordered pursuant to Section 3
13 of this Act and has not been served, a previously issued temporary extreme
14 risk protection order shall remain in place, and the court shall direct the
15 issuance of a new summons for a hearing set not more than fourteen (14)
16 days in the future. If service has not been made on the respondent before
17 that hearing or any subsequent hearing, the temporary extreme risk
18 protection order shall remain in place, and the court shall continue the
19 hearing and issue a new summons with a new date and time for the hearing
20 to occur, which shall be within fourteen (14) days of the previously
21 scheduled hearing date. The court shall repeat the process of continuing the
22 hearing and reissuing a new summons until the respondent is served in
23 advance of the scheduled hearing. If service has not been made on the
24 respondent at least seventy-two (72) hours prior to the scheduled hearing,
25 the court may continue the hearing no more than fourteen (14) days in the
26 future. In issuing the summons, the court shall simultaneously transmit a
27 copy of the summons or notice of its issuance and provisions to the

1 petitioner.

2 **(b) The provisions of this section permitting the continuance of a temporary**
3 **extreme risk protection order shall be limited to six (6) months from the**
4 **issuance of the temporary extreme risk protection order. If the respondent**
5 **has not been served within that period, the order shall be rescinded without**
6 **prejudice. Prior to the expiration of the temporary extreme risk protection**
7 **order, the court shall provide notice to the petitioner stating that, if the**
8 **petitioner does not file a new petition, the order shall be rescinded without**
9 **prejudice.**

10 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
11 READ AS FOLLOWS:

12 **(1) When a hearing is ordered under Section 3 of this Act, the court shall consider**
13 **all admissible evidence presented by the petitioner and the respondent, and may**
14 **also consider other relevant evidence.**

15 **(2) Following a hearing ordered under Section 3 of this Act, if a court finds by clear**
16 **and convincing evidence that the respondent poses an immediate and present**
17 **danger of serious physical injury to self or others by purchasing, possessing,**
18 **receiving, or having in his or her custody or control a firearm, the court shall**
19 **issue an extreme risk protection order that:**

20 **(a) Prohibits the respondent from purchasing, possessing, receiving, or having**
21 **in his or her custody or control a firearm, or attempting to purchase or**
22 **receive a firearm from the date the order is issued until the order expires,**
23 **not to exceed one (1) year from the date of issue; and**

24 **(b) Orders the surrender of firearms under Section 9 of this Act until the order**
25 **expires.**

26 **(3) An extreme risk protection order shall be effective for a period of time fixed by**
27 **the court, not to exceed one (1) year, and may be reissued upon expiration**

1 pursuant to Section 8 of this Act for subsequent periods of up to one (1) year
2 each.

3 (4) An extreme risk protection order shall include:

4 (a) A statement that the respondent shall not purchase, possess, receive, or have
5 in his or her custody or control, or attempt to purchase or receive, a firearm
6 while the order is in effect;

7 (b) A description of the requirements for surrender of firearms and the option
8 of transfer to a responsible party under Section 9 of this Act;

9 (c) A statement of the grounds supporting the issuance of the order;

10 (d) The date and time the order expires;

11 (e) The address of the court that issued the order;

12 (f) A statement that the respondent shall have the right to request a hearing to
13 terminate the order every ninety (90) days during the effective period of the
14 order; and

15 (g) A statement that the respondent may request that an attorney be appointed
16 under Section 4 of this Act.

17 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
18 READ AS FOLLOWS:

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

27 (2) Costs, fees, or bond shall not be assessed against or required of a petitioner for

1 any filing, hearing, service, or order authorized by or required to implement
2 Sections 1 to 15 of this Act.

3 (3) Upon proper filing of a motion, either party may seek to terminate or renew an
4 extreme risk protection order as provided in Section 8 of this Act.

5 (4) Testimony offered by a petitioner or a respondent in a hearing held pursuant to
6 Section 3 of this Act shall not be admissible in any criminal proceeding except for
7 purposes of impeachment.

8 (5) All health records and other health information that either party elects to provide
9 in a petition or considered as evidence in a proceeding under Section 3 or 5 of
10 this Act shall be protected from public disclosure to the extent they identify a
11 respondent or petitioner, except that such information may be provided to law
12 enforcement agencies as set forth in Section 7 of this Act. Aggregate statistical
13 data about the number of extreme risk protection orders requested, issued,
14 renewed, denied, dissolved, or terminated shall be made available by the
15 Administrative Office of the Courts to the public upon request.

16 (6) If a petition made under Section 2 of this Act does not result in the issuance of an
17 extreme risk protection order, the court in which the petition was heard shall
18 order the expungement of the records of the case after thirty (30) days have
19 elapsed since the case was dismissed, in accordance with Section 21 of this Act,
20 unless the respondent requests in writing to preserve the record.

21 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
22 READ AS FOLLOWS:

23 (1) Within twenty-four (24) hours of issuing, recognizing, renewing, dissolving, or
24 terminating a summons or an extreme risk protection order under Sections 1 to
25 15 of this Act, the court shall forward, by the most expedient means reasonably
26 available, a copy of each to the appropriate agency designated for entry of orders
27 of protection into the Law Information Network of Kentucky, to the agency

1 assigned service, and to the Department of Kentucky State Police.

2 (2) Within twenty-four (24) hours of achieving service, a law enforcement officer
3 who serves an extreme risk protection order shall cause a copy of each order
4 issued under Section 3 or 5 of this Act to be electronically forwarded to the
5 appropriate agency designated for entry of orders of protection into the Law
6 Information Network of Kentucky and to the Department of Kentucky State
7 Police.

8 (3) (a) All forms, affidavits, and protection orders issued or filed pursuant to
9 Sections 1 to 15 of this Act which require entry into the Law Information
10 Network of Kentucky shall be entered on forms prescribed by the
11 Administrative Office of the Courts after consultation with the Justice and
12 Public Safety Cabinet.

13 (b) The information required to be submitted to the Law Information Network
14 of Kentucky pursuant to this section shall include identifying information
15 about the respondent and the date the order was issued, recognized,
16 renewed, dissolved, or terminated. In the case of an extreme risk protection
17 order, the court shall include the date the order is set to expire. The court
18 shall also indicate whether the respondent to an extreme risk protection
19 order was present in court to be advised of the contents of the order or if the
20 respondent failed to appear. The respondent's presence in court shall
21 constitute proof of service of notice of the terms of the order.

22 (4) The Department of Kentucky State Police shall immediately make information
23 about an extreme risk protection order issued, renewed, or terminated pursuant to
24 Sections 1 to 15 of this Act available to the National Instant Criminal
25 Background Check System for the purposes of firearm purchaser background
26 checks.

27 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) (a) A respondent to an extreme risk protection order issued under Section 5 of
3 this Act and effective for one hundred twenty (120) days or longer may
4 submit to the issuing court a written request to terminate the order every
5 ninety (90) days during the effective period of the order. The respondent
6 may request a hearing on the request for termination.

7 (b) Notice of the request shall be served on the petitioner in accordance with
8 the laws of this Commonwealth regarding service of process.

9 (c) If the court orders a termination hearing, the hearing shall:

10 1. Occur within fourteen (14) days from the date of service of the request
11 upon the petitioner; and

12 2. Be heard by the issuing court sitting without a jury.

13 (d) The respondent seeking termination of the extreme risk protection order
14 shall have the burden of proving by clear and convincing evidence that the
15 respondent does not pose an immediate and present danger of causing
16 serious physical injury to self or others by purchasing, possessing,
17 receiving, or having in his or her custody or control a firearm.

18 (e) If the judge finds after the hearing that the respondent has met his or her
19 burden, the court shall terminate the order.

20 (2) For extreme risk protection orders effective for more than ninety (90) days, the
21 issuing court shall notify the petitioner that the order is set to expire at least thirty
22 (30) days before expiration. The notice shall advise the petitioner of the
23 procedures for seeking a renewal of the order pursuant to this section.

24 (3) (a) A petitioner may request a renewal of an extreme risk protection order at
25 any time during the ninety (90) day period preceding the expiration of the
26 order.

27 (b) Renewal proceedings for an extreme risk protection order shall be heard by

1 a judge of the District Court which issued the existing order, and the
2 existing extreme risk protection order shall remain in effect until the court
3 holds the hearing.

4 (c) The court may, after notice and a hearing, renew an extreme risk protection
5 order issued under Section 5 of this Act for up to one (1) year after the prior
6 date of expiration if the court finds by clear and convincing evidence that
7 the respondent continues to pose an immediate and present danger of
8 causing serious physical injury to self or others by purchasing, possessing,
9 receiving, or having in his or her custody or control a firearm.

10 (d) In determining whether to renew an extreme risk protection order issued
11 under Section 5 of this Act, the court shall consider all admissible evidence
12 presented by the petitioner and the respondent, and may also consider other
13 relevant evidence.

14 (e) An extreme risk protection order renewed pursuant to this section shall be
15 subject to termination by further order of the court at a hearing held
16 pursuant to subsection (1) of this section or further renewed by order of the
17 court pursuant to this subsection.

18 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
19 READ AS FOLLOWS:

20 (1) Upon issuance of an extreme risk protection order, the court shall:

21 (a) Order the respondent to surrender to a local law enforcement agency all
22 firearms in the respondent's custody or control, or which the respondent
23 possesses; and

24 (b) Direct a law enforcement agency having jurisdiction over the respondent to
25 conduct a reasonable search of available records in order to:

26 1. Identify adults living in the same household as the respondent; and

27 2. Provide notice to those adults that the respondent is prohibited from

1 having firearms in his or her custody or control while the order is in
2 effect.

3 (2) (a) If an extreme risk protection order becomes binding and effective upon a
4 respondent after personal service of the order by a law enforcement officer,
5 the respondent shall surrender all firearms to the control of the law
6 enforcement officer serving the order; or

7 (b) If an extreme risk protection order becomes binding and effective upon a
8 respondent after the respondent is given notice of the existence and terms of
9 the order by a law enforcement officer or the court, the law enforcement
10 officer or the court shall inform the respondent of the time, place, and
11 manner of the surrender to local law enforcement.

12 (3) At the time of surrender, a law enforcement officer taking possession of a firearm
13 pursuant to an extreme risk protection order shall issue a receipt identifying all
14 firearms that have been surrendered and provide a copy of the receipt to the
15 respondent. The officer serving the order shall file the original receipt with the
16 court that issued the extreme risk protection order, and shall ensure that the law
17 enforcement agency retains a copy of the receipt.

18 (4) When an extreme risk protection order is issued under Section 5 of this Act, and
19 firearms have been surrendered to a local law enforcement agency, the
20 respondent or the rightful owner of the firearm, as applicable, may petition the
21 issuing court to order the law enforcement agency to transfer the firearm to:

22 (a) A responsible party;

23 (b) An individual who possesses a valid federal firearms license issued under 18
24 U.S.C. sec. 923 for storage or an eventual lawful sale whose terms are
25 mutually agreed upon between the licensee and the respondent or rightful
26 owner, as applicable; or

27 (c) The Department of Kentucky State Police under KRS 95.435, to be sold at

1 public auction as provided under Section 18 of this Act, with proceeds
2 returned to the respondent or the rightful owner of the firearm, as
3 applicable.

4 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
5 READ AS FOLLOWS:

6 (1) If a court has probable cause to believe a respondent to an extreme risk
7 protection order possesses, or has in his or her custody or control firearms that he
8 or she has failed to surrender pursuant to Sections 1 to 15 of this Act, or has
9 received or purchased firearms while subject to the order, the court shall issue a
10 search warrant describing the firearms and authorizing a search of any location
11 where the firearms are reasonably believed to be and order the seizure of any
12 firearms discovered pursuant to such search.

13 (2) Firearms seized under this subsection shall be processed in the same manner as
14 firearms surrendered under Section 9 of this Act.

15 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
16 READ AS FOLLOWS:

17 (1) (a) A law enforcement agency storing a firearm surrendered under Section 9 of
18 this Act or seized under Section 10 of this Act shall use reasonable care to
19 ensure that the firearm is not lost or damaged, and the law enforcement
20 agency is prohibited from permanently marking the firearm for
21 identification or other purposes.

22 (b) A law enforcement agency shall be liable for any damage to or loss of the
23 firearm that results from the law enforcement agency's negligence in the
24 storage or handling of the firearm.

25 (2) When an extreme risk protection order is terminated or expires, a law
26 enforcement agency holding any firearm that has been surrendered pursuant to
27 Section 9 of this Act or seized under Section 10 of this Act shall notify the

1 respondent that he or she may request the return of the firearm. A law
 2 enforcement agency shall return any surrendered or seized firearm requested by
 3 a respondent only after confirming, through a background check, that the
 4 respondent is currently eligible to possess firearms and that the firearm is not an
 5 illegal firearm.

6 (3) Any firearm which was surrendered by a respondent pursuant to Section 9 of this
 7 Act that remains unclaimed or has not been transferred by the lawful owner one
 8 (1) year after any extreme risk protection order has expired or terminated shall be
 9 sold at public auction as provided under Section 18 of this Act.

10 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
 11 READ AS FOLLOWS:

12 (1) A person who knowingly files a petition for any extreme risk protection order,
 13 knowing the information in the petition to be materially false or with an intent to
 14 harass the respondent, is guilty of a Class A misdemeanor.

15 (2) A person who knowingly purchases, possesses, receives, or has in his or her
 16 custody or control a firearm with knowledge that he or she is prohibited from
 17 doing so by any extreme risk protection order:

18 (a) Is guilty of a Class A misdemeanor; and

19 (b) Shall be prohibited from purchasing, possessing, receiving, having in his or
 20 her custody or control, or attempting to purchase or receive, a firearm for a
 21 period of five (5) years from the date of conviction.

22 (3) If a respondent subject to an extreme risk protection order has transferred a
 23 firearm to a responsible party and the responsible party intentionally or wantonly
 24 allows the respondent access to any firearm, the responsible party is guilty of a
 25 Class A misdemeanor.

26 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
 27 READ AS FOLLOWS:

1 *The Commonwealth of Kentucky shall recognize and enforce orders from other states*
2 *that are substantially similar to temporary extreme risk protection orders or extreme*
3 *risk protection orders, provided that:*

4 *(1) The order is filed with a court of competent jurisdiction within the*
5 *Commonwealth;*

6 *(2) The order is valid in the originating state at the time it is filed; and*

7 *(3) In the case of an order lasting more than fourteen (14) days, the respondent was*
8 *afforded the opportunity for a hearing in the originating state prior to the order*
9 *being issued.*

10 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
11 READ AS FOLLOWS:

12 *Nothing in Sections 1 to 15 of this Act shall be construed to authorize a warrantless*
13 *search or seizure by a law enforcement officer if a warrant would otherwise be*
14 *required.*

15 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
16 READ AS FOLLOWS:

17 *Sections 1 to 15 of this Act shall not be construed to impose criminal or civil liability on*
18 *any person who chooses not to seek an extreme risk protection order.*

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

21 *(1) The department shall establish and maintain the Kentucky Voluntary Do Not Sell*
22 *Firearms List in the Commonwealth of Kentucky to prohibit the possession,*
23 *transportation, and sale of firearms to any person who voluntarily registers*
24 *himself or herself to be enrolled into the list. The department shall promulgate*
25 *administrative regulations in accordance with KRS Chapter 13A and develop any*
26 *policies necessary for the implementation of this section.*

27 *(2) Any person eighteen (18) years of age or older may apply in writing to the*

1 department to request voluntary enrollment into the Kentucky Voluntary Do Not
2 Sell Firearms List and, after being enrolled into the list, may apply in writing to
3 the department to request removal from the list.

4 (3) (a) Any person requesting enrollment into or removal from the Kentucky
5 Voluntary Do Not Sell Firearms List shall submit a photocopy of one (1)
6 valid form of photo identification issued by a governmental agency of the
7 applicant's state of residency or by the United States Department of
8 Defense, or an official United States passport, to accompany the enrollment
9 and removal forms.

10 (b) Enrollment and removal requests may be submitted to the department by
11 mail or in person at any department office location.

12 (4) (a) The application for enrollment into and removal from the Kentucky
13 Voluntary Do Not Sell Firearms List shall be on forms prescribed by the
14 department and shall be available on the department's website.

15 (b) The forms shall state that any person enrolled into the Kentucky Voluntary
16 Do Not Sell Firearms List shall not be removed from the list until twenty-
17 one (21) days after the department receives an application for removal.

18 (5) Upon enrolling a person into the Kentucky Voluntary Do Not Sell Firearms List,
19 the department shall forward a person's eligibility to purchase, possess, or
20 transport a firearm to the National Instant Criminal Background Check System.
21 The department shall notify the person by mail that he or she has been enrolled
22 into the Kentucky Voluntary Do Not Sell Firearms List.

23 (6) Upon enrolling a person into the Kentucky Voluntary Do Not Sell Firearms List,
24 the department shall revoke any existing license to carry concealed firearms held
25 by the person.

26 (7) The department shall not remove any person from the Kentucky Voluntary Do
27 Not Sell Firearms List until twenty-one (21) days after receipt of the person's

1 removal request. Upon removal of a person's name from the list, the department
 2 shall update the person's eligibility to purchase, possess, or transport a firearm to
 3 the National Instant Criminal Background Check System and shall destroy all
 4 records of enrollment into and request for removal from the list.

5 (8) All information regarding a request to be enrolled into or removed from the
 6 Kentucky Voluntary Do Not Sell Firearms List and any other personal identifying
 7 information contained in or related to the list shall not be a public record under
 8 KRS 61.870 to 61.884 and shall be withheld from public disclosure by the
 9 department, except that the information may be disclosed to a law enforcement
 10 officer acting in the performance of his or her official duties or to the applicant
 11 with respect to his or her own information.

12 ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO
 13 READ AS FOLLOWS:

14 (1) A person who intentionally discriminates against another person with respect to
 15 his or her health care services, employment, education, housing, insurance,
 16 governmental benefits, or contracting because of that person's present or past
 17 status on the Kentucky Voluntary Do Not Sell Firearms List is guilty of a Class A
 18 misdemeanor.

19 (2) A person who knowingly makes any false statement to the department with the
 20 intent of enrolling or removing any other person into or from the Kentucky
 21 Voluntary Do Not Sell Firearms List is guilty of a Class A misdemeanor.

22 (3) A person enrolled into the Kentucky Voluntary Do Not Sell Firearms List who
 23 knowingly purchases, possesses, or transfers a firearm is guilty of a Class B
 24 misdemeanor.

25 ➔Section 18. KRS 16.220 is amended to read as follows:

26 (1) Subject to the duty to return confiscated firearms to innocent owners pursuant to
 27 KRS 500.090, all firearms confiscated by the Department of Kentucky State Police

1 and not retained for official use pursuant to KRS 500.090 shall be sold at public
2 auction to federally licensed firearms dealers holding a license appropriate for the
3 type of firearm sold. Any provision of KRS Chapter 45 or 45A relating to
4 disposition of property to the contrary notwithstanding, the Department of
5 Kentucky State Police shall:

- 6 (a) Conduct any auction specified by this section;
- 7 (b) Retain for departmental use twenty percent (20%) of the gross proceeds from
8 any auction specified by this section; and
- 9 (c) Transfer remaining proceeds of the sale to the account of the Kentucky Office
10 of Homeland Security for use as provided in subsection (4) of this section,
11 **except as provided under Section 9 of this Act.**

12 (2) Prior to the sale of any firearm, the Department of Kentucky State Police shall
13 make an attempt to determine if the firearm to be sold has been stolen or otherwise
14 unlawfully obtained from an innocent owner and return the firearm to its lawful
15 innocent owner, unless that person is ineligible to purchase a firearm under federal
16 law.

17 (3) The Department of Kentucky State Police shall receive firearms and ammunition
18 confiscated by or abandoned to every law enforcement agency in Kentucky. The
19 department shall dispose of the firearms received in the manner specified in
20 subsection (1) of this section. However, firearms which are not retained for official
21 use, returned to an innocent lawful owner, or transferred to another government
22 agency or public museum shall be sold as provided in subsections (1) and (3) of this
23 section.

24 (4) **Except as provided under Section 9 of this Act,** the proceeds of firearms sales shall
25 be utilized by the Kentucky Office of Homeland Security to provide grants to city,
26 county, charter county, unified local government, urban-county government, and
27 consolidated local government police departments; university safety and security

1 departments organized pursuant to KRS 164.950; school districts that employ
2 special law enforcement officers as defined in KRS 61.900; and sheriff's
3 departments for the purchase of:

- 4 (a) Body armor for sworn peace officers of those departments and service
5 animals, as defined in KRS 525.010, of those departments;
- 6 (b) Firearms or ammunition;
- 7 (c) Electronic control devices, electronic control weapons, or electro-muscular
8 disruption technology; and
- 9 (d) Body-worn cameras.

10 In awarding grants under this section, the Kentucky Office of Homeland Security
11 shall give first priority to providing and replacing body armor and second priority to
12 providing firearms and ammunition, with residual funds available for the purchase
13 of body-worn cameras, electronic control devices, electronic control weapons, or
14 electro-muscular disruption technology. Body armor purchased by the department
15 receiving grant funds shall meet or exceed the standards issued by the National
16 Institute of Justice for body armor. No police or sheriff's department shall apply for
17 a grant to replace existing body armor unless that body armor has been in actual use
18 for a period of five (5) years or longer. Any department applying for grant funds for
19 body-worn cameras shall develop a policy for their use and shall submit that policy
20 with its application for the grant funds to the Office of Homeland Security as part of
21 the application process.

- 22 (5) The Department of Kentucky State Police may transfer a machine gun, short-
23 barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any
24 other weapon, or destructive device as defined by the National Firearms Act which
25 is subject to registration under the National Firearms Act and is not properly
26 registered in the national firearms transfer records for those types of weapons, to the
27 Bureau of Alcohol, Tobacco, ~~and~~ Firearms, and Explosives of the United States

1 Department of Justice, after a reasonable attempt has been made to transfer the
2 firearm to an eligible state or local law enforcement agency or to an eligible
3 museum and no eligible recipient will take the firearm or weapon. National
4 Firearms Act firearms and weapons which are properly registered and not returned
5 to an innocent lawful owner or retained for official use as provided in this section
6 shall be sold to properly licensed dealers under subsection (3) of this section.

7 ➔Section 19. KRS 237.110 is amended to read as follows:

8 (1) The Department of Kentucky State Police is authorized to issue and renew licenses
9 to carry concealed firearms or other deadly weapons, or a combination thereof, to
10 persons qualified as provided in this section.

11 (2) An original or renewal license issued pursuant to this section shall:

12 (a) Be valid throughout the Commonwealth and, except as provided in this
13 section or other specific section of the Kentucky Revised Statutes or federal
14 law, permit the holder of the license to carry firearms, ammunition, or other
15 deadly weapons, or a combination thereof, at any location in the
16 Commonwealth;

17 (b) Unless revoked or suspended as provided by law, be valid for a period of five
18 (5) years from the date of issuance;

19 (c) Authorize the holder of the license to carry a concealed firearm or other
20 deadly weapon, or a combination thereof, on or about his or her person; and

21 (d) Authorize the holder of the license to carry ammunition for a firearm on or
22 about his or her person.

23 (3) Prior to the issuance of an original or renewal license to carry a concealed deadly
24 weapon, the Department of Kentucky State Police, upon receipt of a completed
25 application, applicable fees, and any documentation required by this section or
26 administrative regulation promulgated by the Department of Kentucky State Police,
27 shall conduct a background check to ascertain whether the applicant is eligible

1 under 18 U.S.C. sec. 922(g) and (n), any other applicable federal law, and state law
2 to purchase, receive, or possess a firearm or ammunition, or both. The background
3 check shall include:

- 4 (a) A state records check covering the items specified in this subsection, together
5 with any other requirements of this section;
- 6 (b) A federal records check, which shall include a National Instant Criminal
7 Background Check System (NICS) check;
- 8 (c) A federal Immigration Alien Query if the person is an alien who has been
9 lawfully admitted to the United States by the United States government or an
10 agency thereof; and
- 11 (d) In addition to the Immigration Alien Query, if the applicant has not been
12 lawfully admitted to the United States under permanent resident status, the
13 Department of Kentucky State Police shall, if a doubt exists relating to an
14 alien's eligibility to purchase a firearm, consult with the United States
15 Department of Homeland Security, United States Department of Justice,
16 United States Department of State, or other federal agency to confirm whether
17 the alien is eligible to purchase a firearm in the United States, bring a firearm
18 into the United States, or possess a firearm in the United States under federal
19 law.

20 (4) The Department of Kentucky State Police shall issue an original or renewal license
21 if the applicant:

- 22 (a) Is not prohibited from the purchase, receipt, or possession of firearms,
23 ammunition, or both pursuant to 18 U.S.C. 922(g), 18 U.S.C. 922(n), or
24 applicable federal or state law;
- 25 (b) 1. Is a citizen of the United States who is a resident of this
26 Commonwealth;
- 27 2. Is a citizen of the United States who is a member of the Armed Forces

- 1 of the United States who is on active duty, who is at the time of
2 application assigned to a military posting in Kentucky;
- 3 3. Is lawfully admitted to the United States by the United States
4 government or an agency thereof, is permitted by federal law to
5 purchase a firearm, and is a resident of this Commonwealth; or
- 6 4. Is lawfully admitted to the United States by the United States
7 government or an agency thereof, is permitted by federal law to
8 purchase a firearm, is, at the time of the application, assigned to a
9 military posting in Kentucky, and has been assigned to a posting in the
10 Commonwealth;
- 11 (c) Is twenty-one (21) years of age or older;
- 12 (d) Has not been committed to a state or federal facility for the abuse of a
13 controlled substance or been convicted of a misdemeanor violation of KRS
14 Chapter 218A or similar laws of any other state relating to controlled
15 substances, within a three (3) year period immediately preceding the date on
16 which the application is submitted;
- 17 (e) Does not chronically and habitually use alcoholic beverages as evidenced by
18 the applicant having two (2) or more convictions for violating KRS 189A.010
19 within the three (3) years immediately preceding the date on which the
20 application is submitted, or having been committed as an alcoholic pursuant to
21 KRS Chapter 222 or similar laws of another state within the three (3) year
22 period immediately preceding the date on which the application is submitted;
- 23 (f) Does not owe a child support arrearage which equals or exceeds the
24 cumulative amount which would be owed after one (1) year of nonpayment, if
25 the Department of Kentucky State Police has been notified of the arrearage by
26 the Cabinet for Health and Family Services;
- 27 (g) Has complied with any subpoena or warrant relating to child support or

1 paternity proceedings. If the Department of Kentucky State Police has not
2 been notified by the Cabinet for Health and Family Services that the applicant
3 has failed to meet this requirement, the Department of Kentucky State Police
4 shall assume that paternity and child support proceedings are not an issue;

5 (h) Has not been convicted of a violation of KRS 508.030 or 508.080 within the
6 three (3) years immediately preceding the date on which the application is
7 submitted. The commissioner of the Department of Kentucky State Police
8 may waive this requirement upon good cause shown and a determination that
9 the applicant is not a danger and that a waiver would not violate federal law;

10 (i) Demonstrates competence with a firearm by successful completion of a
11 firearms safety or training course that is conducted by a firearms instructor
12 who is certified by a national organization with membership open to residents
13 of any state or territory of the United States, which was created to promote
14 firearms education, safety, and the profession of firearms use and training, and
15 to foster professional behavior in its members. The organization shall require
16 members to adhere to its own code of ethics and conduct a program which
17 certifies firearms instructors and includes the use of written tests, in person
18 instruction, and a component of live-fire training. These national
19 organizations shall include but are not limited to the National Rifle
20 Association, the United States Concealed Carry Association, and the National
21 Shooting Sports Foundation. The training requirement may also be fulfilled
22 through any firearms safety course offered or approved by the Department of
23 Criminal Justice Training. The firearms safety course offered or approved by
24 the Department of Criminal Justice Training shall:

- 25 1. Be not more than eight (8) hours in length;
- 26 2. Include instruction on handguns, the safe use of handguns, the care and
27 cleaning of handguns, and handgun marksmanship principles;

- 1 3. Include actual range firing of a handgun in a safe manner, and the firing
2 of not more than twenty (20) rounds at a full-size silhouette target,
3 during which firing, not less than eleven (11) rounds must hit the
4 silhouette portion of the target; and
- 5 4. Include information on and a copy of laws relating to possession and
6 carrying of firearms, as set forth in KRS Chapters 237 and 527, and the
7 laws relating to the use of force, as set forth in KRS Chapter 503;~~and~~
- 8 (j) Demonstrates knowledge of the law regarding the justifiable use of force by
9 including with the application a copy of the concealed carry deadly weapons
10 legal handout made available by the Department of Criminal Justice Training
11 and a signed statement that indicates that applicant has read and understands
12 the handout;
- 13 **(k) Is not prohibited from possessing a firearm under Sections 1 to 15 of this**
14 **Act; and**
- 15 **(l) Is not enrolled into the Kentucky Voluntary Do Not Sell Firearms List**
16 **established pursuant to Section 16 of this Act.**
- 17 (5) (a) A legible photocopy or electronic copy of a certificate of completion issued
18 by a firearms instructor certified by a national organization or the Department
19 of Criminal Justice Training shall constitute evidence of qualification under
20 subsection (4)(i) of this section.
- 21 (b) Persons qualifying under subsection (6)(d) of this section may submit with
22 their application:
- 23 1. At least one (1) of the following paper or electronic forms or their
24 successor forms showing evidence of handgun training or handgun
25 qualifications:
- 26 a. Department of Defense Form DD 2586;
- 27 b. Department of Defense Form DD 214;

- 1 c. Coast Guard Form CG 3029;
- 2 d. Department of the Army Form DA 88-R;
- 3 e. Department of the Army Form DA 5704-R;
- 4 f. Department of the Navy Form OPNAV 3591-1; or
- 5 g. Department of the Air Force Form AF 522; or
- 6 2. a. Documentary evidence of an honorable discharge; and
- 7 b. A notarized affidavit on a form provided by the Department of
- 8 Kentucky State Police, signed under penalty of perjury, stating the
- 9 person has met the training requirements of subsection (6)(d) of
- 10 this section.
- 11 (6) (a) Peace officers who are currently certified as peace officers by the Kentucky
- 12 Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace
- 13 officers who are retired and are members of the Kentucky Employees
- 14 Retirement System, State Police Retirement System, or County Employees
- 15 Retirement System or other retirement system operated by or for a city,
- 16 county, or urban-county in Kentucky shall be deemed to have met the training
- 17 requirement.
- 18 (b) Current and retired peace officers of the following federal agencies shall be
- 19 deemed to have met the training requirement:
- 20 1. Any peace officer employed by a federal agency specified in KRS
- 21 61.365;
- 22 2. Any peace officer employed by a federal civilian law enforcement
- 23 agency not specified above who has successfully completed the basic
- 24 law enforcement training course required by that agency;
- 25 3. Any military peace officer of the United States Army, Navy, Marine
- 26 Corps, or Air Force, or a reserve component thereof, or of the Army
- 27 National Guard or Air National Guard who has successfully completed

1 the military law enforcement training course required by that branch of
2 the military;

3 4. Any member of the United States Coast Guard serving in a peace officer
4 role who has successfully completed the law enforcement training
5 course specified by the United States Coast Guard.

6 (c) Corrections officers who are currently employed by a consolidated local
7 government, an urban-county government, or the Department of Corrections
8 who have successfully completed a basic firearms training course required for
9 their employment, and corrections officers who were formerly employed by a
10 consolidated local government, an urban-county government, or the
11 Department of Corrections who are retired, and who successfully completed a
12 basic firearms training course required for their employment, and are
13 members of a state-administered retirement system or other retirement system
14 operated by or for a city, county, or urban-county government in Kentucky
15 shall be deemed to have met the training requirement.

16 (d) Active or honorably discharged service members in the United States Army,
17 Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component
18 thereof, or of the Army National Guard or Air National Guard shall be
19 deemed to have met the training requirement if these persons:

20 1. Successfully completed handgun training which was conducted by the
21 United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or
22 a reserve component thereof, or of the Army National Guard or Air
23 National Guard; or

24 2. Successfully completed handgun qualification within the United States
25 Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve
26 component thereof, or of the Army Guard or Air Force National Guard.

27 (7) (a) 1. A paper application for a license, or renewal of a license, to carry a

1 concealed deadly weapon shall be obtained from and submitted to the
2 office of the sheriff in the county in which the person resides.

3 2. An applicant, in lieu of a paper application, may submit an electronic
4 application for a license, or renewal of a license, to carry a concealed
5 deadly weapon to the Department of Kentucky State Police.

6 3. Persons qualifying under subsection (6)(d) of this section shall be
7 supplied the information in subsection (4)(i)4. of this section upon
8 obtaining an application.

9 (b) 1. The completed paper application and any documentation required by
10 this section plus an application fee or renewal fee, as appropriate, of
11 sixty dollars (\$60) shall be presented to the office of the sheriff of the
12 county in which the applicant resides.

13 2. The sheriff shall transmit the paper application and accompanying
14 material to the Department of Kentucky State Police within five (5)
15 working days.

16 3. Twenty dollars (\$20) of the paper application fee shall be retained by the
17 office of the sheriff for official expenses of the office. Twenty dollars
18 (\$20) shall be sent to the Department of Kentucky State Police with the
19 application. Ten dollars (\$10) shall be transmitted by the sheriff to the
20 Administrative Office of the Courts to fund background checks for
21 youth leaders, and ten dollars (\$10) shall be transmitted to the
22 Administrative Office of the Courts to fund background checks for
23 applicants for concealed weapons.

24 (c) 1. A completed electronic application submitted in lieu of a paper
25 application, any documentation required by this section, and an
26 application fee or renewal fee, as appropriate, of seventy dollars (\$70)
27 shall be presented to the Department of Kentucky State Police.

- 1 2. If an electronic application is submitted in lieu of a paper application,
2 thirty dollars (\$30) of the electronic application fee shall be retained by
3 the Department of Kentucky State Police. Twenty dollars (\$20) shall be
4 sent to the office of the sheriff of the applicant's county of residence for
5 official expenses of the office. Ten dollars (\$10) shall be transmitted to
6 the Administrative Office of the Courts to fund background checks for
7 youth leaders, and ten dollars (\$10) shall be transmitted to the
8 Administrative Office of the Courts to fund background checks for
9 applicants for concealed weapon carry permits.
- 10 (d) A full-time or part-time peace officer who is currently certified as a peace
11 officer by the Kentucky Law Enforcement Council and who is authorized by
12 his or her employer or government authority to carry a concealed deadly
13 weapon at all times and all locations within the Commonwealth pursuant to
14 KRS 527.020, or a retired peace officer who is a member of the Kentucky
15 Employees Retirement System, State Police Retirement System, County
16 Employees Retirement System, or other retirement system operated by or for
17 a city, county, or urban-county government in Kentucky, shall be exempt
18 from paying the paper or electronic application or renewal fees.
- 19 (e) The application, whether paper or electronic, shall be completed, under oath,
20 on a form or in a manner promulgated by the Department of Kentucky State
21 Police by administrative regulation which shall include:
- 22 1. a. The name, address, place and date of birth, citizenship, gender,
23 Social Security number of the applicant; and
- 24 b. If not a citizen of the United States, alien registration number if
25 applicable, passport number, visa number, mother's maiden name,
26 and other information necessary to determine the immigration
27 status and eligibility to purchase a firearm under federal law of a

- 1 person who is not a citizen of the United States;
- 2 2. A statement that, to the best of his or her knowledge, the applicant is in
3 compliance with criteria contained within subsections (3) and (4) of this
4 section;
- 5 3. A statement that the applicant, if qualifying under subsection (6)(d) of
6 this section, has provided:
- 7 a. At least one (1) of the forms listed in subsection (5) of this section;
8 or
- 9 b. i. Documentary evidence of an honorable discharge; and
10 ii. A notarized affidavit on a form provided by the Department
11 of Kentucky State Police stating the person has met the
12 training requirements of subsection (6)(d) of this section;
- 13 4. A statement that the applicant has been furnished a copy of this section
14 and is knowledgeable about its provisions;
- 15 5. A statement that the applicant has been furnished a copy of, has read,
16 and understands KRS Chapter 503 as it pertains to the use of deadly
17 force for self-defense in Kentucky; and
- 18 6. A conspicuous warning that the application is executed under oath and
19 that a materially false answer to any question, or the submission of any
20 materially false document by the applicant, subjects the applicant to
21 criminal prosecution under KRS 523.030.
- 22 (8) The applicant shall submit to the sheriff of the applicant's county of residence or
23 county of military posting if submitting a paper application, or to the Department of
24 Kentucky State Police if submitting an electronic application:
- 25 (a) A completed application as described in subsection (7) of this section;
26 (b) A recent color photograph of the applicant, as prescribed by administrative
27 regulation;

- 1 (c) A paper or electronic certificate or an affidavit or document as described in
2 subsection (5) of this section;
- 3 (d) A paper or electronic document establishing the training exemption as
4 described in subsection (6) of this section; and
- 5 (e) For an applicant who is not a citizen of the United States and has been
6 lawfully admitted to the United States by the United States government or an
7 agency thereof, an affidavit as prescribed by administrative regulation
8 concerning his or her immigration status and his or her United States
9 government issued:
- 10 1. Permanent Resident Card I-551 or its equivalent successor
11 identification;
 - 12 2. Other United States government issued evidence of lawful admission to
13 the United States which includes the category of admission, if admission
14 has not been granted as a permanent resident; and
 - 15 3. Evidence of compliance with the provisions of 18 U.S.C. sec. 922(g)(5),
16 18 U.S.C. sec. 922(d)(5), or 18 U.S.C. sec. 922(y)(2), and 27 C.F.R. Part
17 178, including, as appropriate, but not limited to evidence of ninety (90)
18 day residence in the Commonwealth, a valid current Kentucky hunting
19 license if claiming exemption as a hunter, or other evidence of eligibility
20 to purchase a firearm by an alien which is required by federal law or
21 regulation.

22 If an applicant presents identification specified in this paragraph, the sheriff
23 shall examine the identification, may record information from the
24 identification presented, and shall return the identification to the applicant.

- 25 (9) The Department of Kentucky State Police shall, within sixty (60) days after the date
26 of receipt of the items listed in subsection (8) of this section if the applicant
27 submitted a paper application, or within fifteen (15) business days after the date of

1 receipt of the items listed in subsection (8) of this section if the applicant applied
2 electronically, either:

3 (a) Issue the license; or

4 (b) Deny the application based solely on the grounds that the applicant fails to
5 qualify under the criteria listed in subsection (3) or (4) of this section. If the
6 Department of Kentucky State Police denies the application, it shall notify the
7 applicant in writing, stating the grounds for denial and informing the applicant
8 of a right to submit, within thirty (30) days, any additional documentation
9 relating to the grounds of denial. Upon receiving any additional
10 documentation, the Department of Kentucky State Police shall reconsider its
11 decision and inform the applicant within twenty (20) days of the result of the
12 reconsideration. The applicant shall further be informed of the right to seek de
13 novo review of the denial in the District Court of his or her place of residence
14 within ninety (90) days from the date of the letter advising the applicant of the
15 denial.

16 (10) The Department of Kentucky State Police shall maintain an automated listing of
17 license holders and pertinent information, and this information shall be available
18 upon request, at all times to all Kentucky, federal, and other states' law enforcement
19 agencies. A request for the entire list of licensees, or for all licensees in a
20 geographic area, shall be denied. Only requests relating to a named licensee shall be
21 honored or available to law enforcement agencies. Information on applications for
22 licenses, names and addresses, or other identifying information relating to license
23 holders shall be confidential and shall not be made available except to law
24 enforcement agencies. No request for lists of local or statewide permit holders shall
25 be made to any state or local law enforcement agency, peace officer, or other
26 agency of government other than the Department of Kentucky State Police, and no
27 state or local law enforcement agency, peace officer, or agency of government,

1 other than the Department of Kentucky State Police, shall provide any information
2 to any requester not entitled to it by law.

3 (11) Within thirty (30) days after the changing of a permanent address, or within thirty
4 (30) days after the loss, theft, or destruction of a license, the licensee shall notify the
5 Department of Kentucky State Police of the loss, theft, or destruction. Failure to
6 notify the Department of Kentucky State Police shall constitute a noncriminal
7 violation with a penalty of twenty-five dollars (\$25) payable to the clerk of the
8 District Court. No court costs shall be assessed for a violation of this subsection.
9 When a licensee makes application to change his or her residence address or other
10 information on the license, neither the sheriff nor the Department of Kentucky State
11 Police shall require a surrender of the license until a new license is in the office of
12 the applicable sheriff and available for issuance. Upon the issuance of a new
13 license, the old license shall be destroyed by the sheriff.

14 (12) If a license is lost, stolen, or destroyed, the license shall be automatically invalid,
15 and the person to whom the same was issued may, upon payment of fifteen dollars
16 (\$15) for a paper request, or twenty-five dollars (\$25) for an electronic request
17 submitted in lieu of a paper request, to the Department of Kentucky State Police,
18 obtain a duplicate, upon furnishing a notarized statement to the Department of
19 Kentucky State Police that the license has been lost, stolen, or destroyed.

20 (13) (a) The commissioner of the Department of Kentucky State Police, or his or her
21 designee in writing, shall revoke the license of any person who becomes
22 permanently ineligible to be issued a license or have a license renewed under
23 the criteria set forth in this section.

24 (b) The commissioner of the Department of Kentucky State Police, or his or her
25 designee in writing, shall suspend the license of any person who becomes
26 temporarily ineligible to be issued a license or have a license renewed under
27 the criteria set forth in this section. The license shall remain suspended until

- 1 the person is again eligible for the issuance or renewal of a license.
- 2 (c) Upon the suspension or revocation of a license, the commissioner of the
3 Department of Kentucky State Police, or his or her designee in writing, shall:
- 4 1. Order any peace officer to seize the license from the person whose
5 license was suspended or revoked; or
- 6 2. Direct the person whose license was suspended or revoked to surrender
7 the license to the sheriff of the person's county of residence within two
8 (2) business days of the receipt of the notice.
- 9 (d) If the person whose license was suspended or revoked desires a hearing on the
10 matter, the person shall surrender the license as provided in paragraph (c)2. of
11 this subsection and petition the commissioner of the Department of Kentucky
12 State Police to hold a hearing on the issue of suspension or revocation of the
13 license.
- 14 (e) Upon receipt of the petition, the commissioner of the Department of Kentucky
15 State Police shall cause a hearing to be held in accordance with KRS Chapter
16 13B on the suspension or revocation of the license. If the license has not been
17 surrendered, no hearing shall be scheduled or held.
- 18 (f) If the hearing officer determines that the licensee's license was wrongly
19 suspended or revoked, the hearing officer shall order the commissioner of the
20 Department of Kentucky State Police to return the license and abrogate the
21 suspension or revocation of the license.
- 22 (g) Any party may appeal a decision pursuant to this subsection to the District
23 Court in the licensee's county of residence in the same manner as for the
24 denial of a license.
- 25 (h) If the license is not surrendered as ordered, the commissioner of the
26 Department of Kentucky State Police shall order a peace officer to seize the
27 license and deliver it to the commissioner.

- 1 (i) Failure to surrender a suspended or revoked license as ordered is a Class A
2 misdemeanor.
- 3 (j) The provisions of this subsection relating to surrender of a license shall not
4 apply if a court of competent jurisdiction has enjoined its surrender.
- 5 (k) When a domestic violence order or emergency protective order is issued
6 pursuant to the provisions of KRS Chapter 403 against a person holding a
7 license issued under this section, the holder of the permit shall surrender the
8 license to the court or to the officer serving the order. The officer to whom the
9 license is surrendered shall forthwith transmit the license to the court issuing
10 the order. The license shall be suspended until the order is terminated, or until
11 the judge who issued the order terminates the suspension prior to the
12 termination of the underlying domestic violence order or emergency
13 protective order, in writing and by return of the license, upon proper motion
14 by the license holder. Subject to the same conditions as above, a peace officer
15 against whom an emergency protective order or domestic violence order has
16 been issued shall not be permitted to carry a concealed deadly weapon when
17 not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.
- 18 (14) (a) Not less than one hundred twenty (120) days prior to the expiration date of the
19 license, the Department of Kentucky State Police shall mail to each licensee a
20 written notice of the expiration and a renewal form prescribed by the
21 Department of Kentucky State Police. The outside of the envelope containing
22 the license renewal notice shall bear only the name and address of the
23 applicant. No other information relating to the applicant shall appear on the
24 outside of the envelope sent to the applicant. The licensee may renew his or
25 her license on or before the expiration date by filing with the sheriff of his or
26 her county of residence the paper renewal form, or by filing with the
27 Department of Kentucky State Police an electronic renewal form in lieu of a

1 paper renewal form, stating that the licensee remains qualified pursuant to the
2 criteria specified in subsections (3) and (4) of this section, and the required
3 renewal fee set forth in subsection (7) of this section. The sheriff shall issue to
4 the applicant a receipt for the paper application for renewal of the license and
5 shall date the receipt. The Department of Kentucky State Police shall issue to
6 the applicant a receipt for an electronic application for renewal of the license
7 submitted in lieu of a paper application for renewal and shall date the receipt.

8 (b) A license which has expired shall be void and shall not be valid for any
9 purpose other than surrender to the sheriff in exchange for a renewal license.

10 (c) The license shall be renewed to a qualified applicant upon receipt of the
11 completed renewal application, records check as specified in subsection (3) of
12 this section, determination that the renewal applicant is not ineligible for a
13 license as specified in subsection (4), and appropriate payment of fees. Upon
14 the issuance of a new license, the old license shall be destroyed by the sheriff.
15 A licensee who fails to file a renewal application on or before its expiration
16 date may renew his or her license by paying, in addition to the license fees, a
17 late fee of fifteen dollars (\$15). No license shall be renewed six (6) months or
18 more after its expiration date, and the license shall be deemed to be
19 permanently expired six (6) months after its expiration date. A person whose
20 license has permanently expired may reapply for licensure pursuant to
21 subsections (7), (8), and (9) of this section.

22 (15) The licensee shall carry the license at all times the licensee is carrying a concealed
23 firearm or other deadly weapon and shall display the license upon request of a law
24 enforcement officer. Violation of the provisions of this subsection shall constitute a
25 noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the
26 clerk of the District Court, but no court costs shall be assessed.

27 (16) Except as provided in KRS 527.020, no license issued pursuant to this section shall

- 1 authorize any person to carry a concealed firearm into:
- 2 (a) Any police station or sheriff's office;
- 3 (b) Any detention facility, prison, or jail;
- 4 (c) Any courthouse, solely occupied by the Court of Justice courtroom, or court
5 proceeding;
- 6 (d) Any meeting of the governing body of a county, municipality, or special
7 district; or any meeting of the General Assembly or a committee of the
8 General Assembly, except that nothing in this section shall preclude a member
9 of the body, holding a concealed deadly weapon license, from carrying a
10 concealed deadly weapon at a meeting of the body of which he or she is a
11 member;
- 12 (e) Any portion of an establishment licensed to dispense beer or alcoholic
13 beverages for consumption on the premises, which portion of the
14 establishment is primarily devoted to that purpose;
- 15 (f) Any elementary or secondary school facility without the consent of school
16 authorities as provided in KRS 527.070, any child-caring facility as defined in
17 KRS 199.011, any day-care center as defined in KRS 199.894, or any certified
18 family child-care home as defined in KRS 199.8982, except however, any
19 owner of a certified child-care home may carry a concealed firearm into the
20 owner's residence used as a certified child-care home;
- 21 (g) An area of an airport to which access is controlled by the inspection of
22 persons and property; or
- 23 (h) Any place where the carrying of firearms is prohibited by federal law.
- 24 (17) The owner, business or commercial lessee, or manager of a private business
25 enterprise, day-care center as defined in KRS 199.894 or certified or licensed
26 family child-care home as defined in KRS 199.8982, or a health-care facility
27 licensed under KRS Chapter 216B, except facilities renting or leasing housing, may

1 prohibit persons holding concealed deadly weapon licenses from carrying
2 concealed deadly weapons on the premises and may prohibit employees, not
3 authorized by the employer, holding concealed deadly weapons licenses from
4 carrying concealed deadly weapons on the property of the employer. If the building
5 or the premises are open to the public, the employer or business enterprise shall
6 post signs on or about the premises if carrying concealed weapons is prohibited.
7 Possession of weapons, or ammunition, or both in a vehicle on the premises shall
8 not be a criminal offense so long as the weapons, or ammunition, or both are not
9 removed from the vehicle or brandished while the vehicle is on the premises. A
10 private but not a public employer may prohibit employees or other persons holding
11 a concealed deadly weapons license from carrying concealed deadly weapons, or
12 ammunition, or both in vehicles owned by the employer, but may not prohibit
13 employees or other persons holding a concealed deadly weapons license from
14 carrying concealed deadly weapons, or ammunition, or both in vehicles owned by
15 the employee, except that the Justice and Public Safety Cabinet may prohibit an
16 employee from carrying any weapons, or ammunition, or both other than the
17 weapons, or ammunition, or both issued or authorized to be used by the employee
18 of the cabinet, in a vehicle while transporting persons under the employee's
19 supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both
20 in a location specified in this subsection by a license holder shall not be a criminal
21 act but may subject the person to denial from the premises or removal from the
22 premises, and, if an employee of an employer, disciplinary measures by the
23 employer.

24 (18) All moneys collected by the Department of Kentucky State Police pursuant to this
25 section shall be used to administer the provisions of this section and KRS 237.138
26 to 237.142. By March 1 of each year, the Department of Kentucky State Police and
27 the Administrative Office of the Courts shall submit reports to the Governor, the

1 President of the Senate, and the Speaker of the House of Representatives, indicating
2 the amounts of money collected and the expenditures related to this section, KRS
3 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070, and the
4 administration of the provisions of this section, KRS 237.138 to 237.142, and KRS
5 237.115, 244.125, 527.020, and 527.070.

6 (19) The General Assembly finds as a matter of public policy that it is necessary to
7 provide statewide uniform standards for issuing licenses to carry concealed firearms
8 and to occupy the field of regulation of the bearing of concealed firearms to ensure
9 that no person who qualifies under the provisions of this section is denied his or her
10 rights. The General Assembly does not delegate to the Department of Kentucky
11 State Police the authority to regulate or restrict the issuing of licenses provided for
12 in this section beyond those provisions contained in this section. This section shall
13 be liberally construed to carry out the constitutional right to bear arms for self-
14 defense.

15 (20) (a) A person who is not a resident of Kentucky and who has a valid license issued
16 by another state of the United States to carry a concealed deadly weapon in
17 that state may, subject to provisions of Kentucky law, carry a concealed
18 deadly weapon in Kentucky, and his or her license shall be considered as valid
19 in Kentucky.

20 (b) If a person with a valid license to carry a concealed deadly weapon issued
21 from another state that has entered into a reciprocity agreement with the
22 Department of Kentucky State Police becomes a resident of Kentucky, the
23 license issued by the other state shall be considered as valid for the first one
24 hundred twenty (120) days of the person's residence in Kentucky, if within
25 sixty (60) days of moving to Kentucky, the person completes a form
26 promulgated by the Department of Kentucky State Police which shall include:

27 1. A signed and notarized statement averring that to the best of his or her

- 1 knowledge the person's license to carry a concealed deadly weapon is
2 valid and in compliance with applicable out-of-state law, and has not
3 been revoked or suspended for any reason except for valid forfeiture due
4 to departure from the issuing state;
- 5 2. The person's name, date of birth, citizenship, gender, Social Security
6 number if applicable, proof that he or she is a citizen of the United
7 States, a permanent resident of the United States, or otherwise lawfully
8 present in the United States, former out-of-state address, current address
9 within the state of Kentucky, date on which Kentucky residence began,
10 state which issued the concealed carry license, the issuing state's
11 concealed carry license number, and the state of issuance of license; and
- 12 3. A photocopy of the person's out-of-state license to carry a concealed
13 deadly weapon.
- 14 (c) Within sixty (60) days of moving to Kentucky, the person shall deliver the
15 form and accompanying documents by registered or certified mail, return
16 receipt requested, to the address indicated on the form provided by the
17 Department of Kentucky State Police pursuant to this subsection.
- 18 (d) The out-of-state concealed carry license shall become invalid in Kentucky
19 upon the earlier of:
- 20 1. The out-of-state person having resided in Kentucky for more than one
21 hundred twenty (120) days; or
- 22 2. The person being issued a Kentucky concealed deadly weapon license
23 pursuant to this section.
- 24 (e) The Department of Kentucky State Police shall, not later than thirty (30) days
25 after July 15, 1998, and not less than once every twelve (12) months
26 thereafter, make written inquiry of the concealed deadly weapon carrying
27 licensing authorities in each other state as to whether a Kentucky resident may

1 carry a concealed deadly weapon in their state based upon having a valid
2 Kentucky concealed deadly weapon license, or whether a Kentucky resident
3 may apply for a concealed deadly weapon carrying license in that state based
4 upon having a valid Kentucky concealed deadly weapon license. The
5 Department of Kentucky State Police shall attempt to secure from each other
6 state permission for Kentucky residents who hold a valid Kentucky concealed
7 deadly weapon license to carry concealed deadly weapons in that state, either
8 on the basis of the Kentucky license or on the basis that the Kentucky license
9 is sufficient to permit the issuance of a similar license by the other state. The
10 Department of Kentucky State Police shall enter into a written reciprocity
11 agreement with the appropriate agency in each state that agrees to permit
12 Kentucky residents to carry concealed deadly weapons in the other state on
13 the basis of a Kentucky-issued concealed deadly weapon license or that will
14 issue a license to carry concealed deadly weapons in the other state based
15 upon a Kentucky concealed deadly weapon license. If a reciprocity agreement
16 is reached, the requirement to recontact the other state each twelve (12)
17 months shall be eliminated as long as the reciprocity agreement is in force.
18 The information shall be a public record and shall be available to individual
19 requesters free of charge for the first copy and at the normal rate for open
20 records requests for additional copies.

21 (21) By March 1 of each year, the Department of Kentucky State Police shall submit a
22 statistical report to the Governor, the President of the Senate, and the Speaker of the
23 House of Representatives, indicating the number of licenses issued, revoked,
24 suspended, and denied since the previous report and in total and also the number of
25 licenses currently valid. The report shall also include the number of arrests,
26 convictions, and types of crimes committed since the previous report by individuals
27 licensed to carry concealed weapons.

- 1 (22) The following provisions shall apply to concealed deadly weapon training classes
2 conducted by the Department of Criminal Justice Training or any other agency
3 pursuant to this section:
- 4 (a) No concealed deadly weapon instructor trainer shall have his or her
5 certification as a concealed deadly weapon instructor trainer reduced to that of
6 instructor or revoked except after a hearing conducted pursuant to KRS
7 Chapter 13B in which the instructor is found to have committed an act in
8 violation of the applicable statutes or administrative regulations;
- 9 (b) No concealed deadly weapon instructor shall have his or her certification as a
10 concealed deadly weapon instructor license suspended or revoked except after
11 a hearing conducted pursuant to KRS Chapter 13B in which the instructor is
12 found to have committed an act in violation of the applicable statutes or
13 administrative regulations;
- 14 (c) The department shall not require prior notification that an applicant class or
15 instructor class will be conducted by a certified instructor or instructor trainer;
- 16 (d) Each concealed deadly weapon instructor or instructor trainer who teaches a
17 concealed deadly weapon applicant or concealed deadly weapon instructor
18 class shall supply the Department of Criminal Justice Training with a class
19 roster indicating which students enrolled and successfully completed the class,
20 and which contains the name and address of each student, within five (5)
21 working days of the completion of the class. The information may be sent by
22 mail, facsimile, email~~[e-mail]~~, or other method which will result in the receipt
23 of or production of a hard copy of the information. The postmark, facsimile
24 date, or email~~[e-mail]~~ date shall be considered as the date on which the notice
25 was sent. Concealed deadly weapon class applicant, instructor, and instructor
26 trainer information and records shall be confidential. The department may
27 release to any person or organization the name, address, and telephone

1 number of a concealed deadly weapon instructor or instructor trainer if that
2 instructor or instructor trainer authorizes the release of the information in
3 writing. The department shall include on any application for an instructor or
4 instructor trainer certification a statement that the applicant either does or
5 does not desire the applicant's name, address, and telephone number to be
6 made public;

7 (e) An instructor trainer who assists in the conduct of a concealed deadly weapon
8 instructor class or concealed deadly weapon applicant class for more than two
9 (2) hours shall be considered as to have taught a class for the purpose of
10 maintaining his or her certification. All class record forms shall include spaces
11 for assistant instructors to sign and certify that they have assisted in the
12 conduct of a concealed deadly weapon instructor or concealed deadly weapon
13 class;

14 (f) An instructor who assists in the conduct of a concealed deadly weapon
15 applicant class for more than two (2) hours shall be considered as to have
16 taught a class for the purpose of maintaining his or her license. All class
17 record forms shall include spaces for assistant instructors to sign and certify
18 that they have assisted in the conduct of a concealed deadly weapon class;

19 (g) If the Department of Criminal Justice Training believes that a firearms
20 instructor trainer or certified firearms instructor has not in fact complied with
21 the requirements for teaching a certified firearms instructor or applicant class
22 by not teaching the class as specified in KRS 237.126, or who has taught an
23 insufficient class as specified in KRS 237.128, the department shall send to
24 each person who has been listed as successfully completing the concealed
25 deadly weapon applicant class or concealed deadly weapon instructor class a
26 verification form on which the time, date, date of range firing if different from
27 the date on which the class was conducted, location, and instructor of the class

1 is listed by the department and which requires the person to answer "yes" or
2 "no" to specific questions regarding the conduct of the training class. The
3 form shall be completed under oath and shall be returned to the Department of
4 Criminal Justice Training not later than forty-five (45) days after its receipt. A
5 person who fails to complete the form, to sign the form, or to return the form
6 to the Department of Criminal Justice Training within the time frame
7 specified in this section or who, as a result of information on the returned
8 form, is determined by the Department of Criminal Justice Training,
9 following a hearing pursuant to KRS Chapter 13B, to not have received the
10 training required by law shall have his or her concealed deadly weapon
11 license revoked by the Department of Kentucky State Police, following a
12 hearing conducted by the Department of Criminal Justice Training pursuant to
13 KRS Chapter 13B, at which hearing the person is found to have violated the
14 provisions of this section or who has been found not to have received the
15 training required by law;

16 (h) The department shall annually, not later than December 31 of each year,
17 report to the Legislative Research Commission:

- 18 1. The number of firearms instructor trainers and certified firearms
19 instructors whose certifications were suspended, revoked, denied, or
20 who were otherwise disciplined;
- 21 2. The reasons for the imposition of suspensions, revocations, denials, or
22 other discipline; and
- 23 3. Suggestions for improvement of the concealed deadly weapon applicant
24 training program and instructor process;

25 (i) If a concealed deadly weapon license holder is convicted of, pleads guilty to,
26 or enters an Alford plea to a felony offense, then his or her concealed deadly
27 weapon license shall be forthwith revoked by the Department of Kentucky

1 State Police as a matter of law;

2 (j) If a concealed deadly weapon instructor or instructor trainer is convicted of,
3 pleads guilty to, or enters an Alford plea to a felony offense, then his or her
4 concealed deadly weapon instructor certification or concealed deadly weapon
5 instructor trainer certification shall be revoked by the Department of Criminal
6 Justice Training as a matter of law; and

7 (k) The following shall be in effect:

8 1. Action to eliminate the firearms instructor trainer program is prohibited.
9 The program shall remain in effect, and no firearms instructor trainer
10 shall have his or her certification reduced to that of certified firearms
11 instructor;

12 2. The Department of Kentucky State Police shall revoke the concealed
13 deadly weapon license of any person who received no firearms training
14 as required by KRS 237.126 and administrative regulations, or who
15 received insufficient training as required by KRS 237.128 and
16 administrative regulations, if the person voluntarily admits nonreceipt of
17 training or admits receipt of insufficient training, or if either nonreceipt
18 of training or receipt of insufficient training is proven following a
19 hearing conducted by the Department of Criminal Justice Training
20 pursuant to KRS Chapter 13B.

21 ➔Section 20. KRS 431.015 is amended to read as follows:

22 (1) (a) KRS 431.005 to the contrary notwithstanding, and except as provided in
23 paragraphs (b), (c), and (d) of this subsection, a peace officer shall issue a
24 citation instead of making an arrest for a misdemeanor committed in his or her
25 presence, if there are reasonable grounds to believe that the person being cited
26 will appear to answer the charge. The citation shall provide that the defendant
27 shall appear within a designated time.

- 1 (b) A peace officer may make an arrest instead of issuing a citation for a
2 misdemeanor committed in his or her presence if the misdemeanor is:
- 3 1. A violation of KRS Chapter 508, 510, or 527, or KRS 189A.010,
4 511.050, 511.085, 514.110, or 523.110;
 - 5 2. An offense in which the defendant poses a risk of danger to himself,
6 herself, or another person; or
 - 7 3. An offense in which the defendant refuses to follow the peace officer's
8 reasonable instructions.
- 9 (c) A peace officer shall make an arrest for violations of ~~protective orders issued~~
10 ~~pursuant to KRS 403.715 to 403.785 or~~ an order of protection as defined in
11 **KRS 403.720 or 456.010, or an extreme risk protection order as defined in**
12 **Section 1 of this Act.**
- 13 (d) A peace officer may make an arrest or may issue a citation for a violation of
14 KRS 508.030 which occurs in a hospital pursuant to KRS 431.005(1)(f).
- 15 (2) A peace officer may issue a citation instead of making an arrest for a violation
16 committed in his or her presence but may not make a physical arrest unless there
17 are reasonable grounds to believe that the defendant, if a citation is issued, will not
18 appear at the designated time or unless the offense charged is a violation of KRS
19 189.223, 189.290, 189.393, 189.520, 189.580, 235.240, 281.600, 511.080, or
20 525.070 committed in his or her presence or a violation of KRS 189A.010, not
21 committed in his or her presence, for which an arrest without a warrant is permitted
22 under KRS 431.005(1)(e).
- 23 (3) A peace officer may issue a citation when he or she has probable cause to believe
24 that the person being issued the citation has committed a misdemeanor outside of
25 his or her presence, if there are reasonable grounds to believe that the person being
26 cited will appear to answer the charge. The citation shall provide that the defendant
27 shall appear within a designated time.

1 (4) If the defendant fails to appear in response to the citation, or if there are reasonable
2 grounds to believe that he or she will not appear, a complaint may be made before a
3 judge and a warrant shall issue.

4 (5) When a physical arrest is made and a citation is issued in relation to the same
5 offense the officer shall mark on the citation, in the place specified for court
6 appearance date, the word "ARRESTED" in lieu of the date of court appearance.

7 ➔Section 21. KRS 431.076 is amended to read as follows:

8 (1) (a) On or after July 15, 2020, if a court enters:

9 1. An order of acquittal of criminal charges against a person; ~~or enters~~

10 2. An order dismissing with prejudice all criminal charges in a case against
11 a person and not in exchange for a guilty plea to another charge; ~~or~~

12 3. *An order dismissing a petition for an extreme risk protection order*
13 *under Section 3 of this Act;*

14 the court shall order the record expunged upon the expiration of thirty (30)
15 days, unless the person objects to the expungement. As used in this paragraph,
16 "criminal charges" shall not include a traffic infraction not otherwise
17 classified as a misdemeanor. The order expunging the records shall not
18 require any action by the person.

19 (b) A person who has been charged with a criminal offense and who has been
20 acquitted of the charges, or against whom charges have been dismissed and
21 not in exchange for a guilty plea to another charge, and whose records have
22 not been expunged pursuant to paragraph (a) of this subsection, may petition
23 the court in which the disposition of the charges was made to expunge all
24 charges.

25 (c) A person against whom felony charges originally filed in the District Court
26 have not resulted in an indictment by the grand jury or in an information filed
27 by the Commonwealth's attorney may petition the District Court in which the

1 charges were filed to dismiss and expunge all charges for which an indictment
2 or information has not issued.

3 (2) An expungement petition brought under subsection (1)(b) or (c) of this section shall
4 be filed no sooner than:

5 (a) Sixty (60) days following the order of acquittal or dismissal with prejudice by
6 the court;

7 (b) Six (6) months following the date of the District Court decision to hold the
8 matter to the grand jury; or

9 (c) For charges dismissed without prejudice:

10 1. For felony charges, three (3) years following the date of the order of
11 dismissal without prejudice; or

12 2. For misdemeanor charges, one (1) year following the date of the order
13 of dismissal without prejudice.

14 (3) (a) If the court finds that the petition under subsection (1)(b) of this section is
15 properly brought, the court shall grant the petition and order the expunging of
16 the records.

17 (b) 1. If the expungement petition is brought under subsection (1)(c) of this
18 section, the petition shall be served upon the offices of the county and
19 Commonwealth's attorneys that prosecuted the case.

20 2. Following the filing of the petition, the court shall notify the county and
21 Commonwealth's attorneys of an opportunity for a response to the
22 petition. The response shall be filed within ninety (90) days after the
23 filing of the petition.

24 3. If a response is not filed, ninety (90) days after the filing of the petition
25 the court shall dismiss the charges without prejudice and order the
26 expunging of the records.

27 4. If a response is filed, ninety (90) days after the date the response is filed,

1 if an indictment has not issued, the court shall dismiss without prejudice
2 the charges for which an indictment has not issued and order the
3 expunging of the records.

4 (4) An order of expungement pursuant to this section shall expunge all criminal records
5 in the custody of the court and any criminal records in the custody of any other
6 agency or official, including law enforcement records, but no order of expungement
7 pursuant to this section shall expunge records in the custody of the Department for
8 Community Based Services. The court shall order the expunging on a form
9 provided by the Administrative Office of the Courts. Every agency, with records
10 relating to the arrest, charge, or other matters arising out of the arrest or charge, that
11 is ordered to expunge records, shall certify to the court within sixty (60) days of the
12 entry of the expungement order, that the required expunging action has been
13 completed. All orders enforcing the expungement procedure shall also be expunged.

14 (5) (a) If an expungement is ordered under subsection (1)(a) or (b) of this section, an
15 appellate court which issued an opinion in the case shall order the appellate
16 case file to be sealed and also direct that the version of the appellate opinion
17 published on the court's website~~[Web site]~~ be modified to avoid use of the
18 defendant's name in the case title and body of the opinion.

19 (b) If an expungement is ordered under subsection (1)(c) of this section, an
20 appellate court which issued an opinion in the case may, upon motion of the
21 petitioner in the case, order the appellate case file to be sealed and also direct
22 that the version of the appellate opinion published on the court's website~~[Web
23 site]~~ be modified to avoid use of the petitioner's name in the case title and
24 body of the opinion.

25 (6) After the expungement, the proceedings in the matter shall be deemed never to have
26 occurred. The court and other agencies shall delete or remove the records from their
27 computer systems so that any official state-performed background check will

1 indicate that the records do not exist. The court and other agencies shall reply to any
2 inquiry that no record exists on the matter. The person whose record is expunged
3 shall not have to disclose the fact of the record or any matter relating thereto on an
4 application for employment, credit, or other type of application.

5 (7) Inspection of the records included in the order may thereafter be permitted by the
6 court only upon petition by the person who is the subject of the records and only to
7 those persons named in the petition.

8 (8) Except as provided in subsection (1)(a) of this section, this section shall be
9 retroactive.