

1 AN ACT relating to crisis aversion and rights retention orders.

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 *Sections 1 to 16 of this Act shall be interpreted to:*

6 *(1) Allow the Commonwealth to act expeditiously in the interest of public safety and*  
7 *welfare; and*

8 *(2) Preserve the rights afforded under the Constitutions of the United States and the*  
9 *Commonwealth of Kentucky to the people of the Commonwealth to purchase,*  
10 *possess, receive, and have firearms in their custody or control.*

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

13 *As used in Sections 1 to 16 of this Act:*

14 *(1) "Crisis aversion and rights retention order" means any crisis aversion and rights*  
15 *retention order issued by a District Court pursuant to Section 6 of this Act,*  
16 *including those issued on a temporary basis under Section 4 of this Act, and*  
17 *including a foreign crisis aversion and rights retention order filed under Section*  
18 *14 of this Act;*

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

25 *(b) "Law enforcement officer" does not include any constable, deputy*  
26 *constable, district detective, deputy district detective, special local peace*  
27 *officer, special law enforcement officer, or auxiliary police officer;*

1 (3) "Respondent" means the person against whom a crisis aversion and rights  
 2 retention order is sought; and

3 (4) "Responsible party" means a person who:

4 (a) Does not cohabit with the respondent;

5 (b) May lawfully possess a firearm; and

6 (c) Enters into a written court agreement to accept the transfer of a firearm as  
 7 a responsible party under Section 10 of this Act.

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

10 (1) A law enforcement officer may file a petition for a crisis aversion and rights  
 11 retention order.

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

13 (3) The petition shall be verified and contain:

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

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

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

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

21 (4) The petition shall be filed on forms prescribed by the Administrative Office of the  
 22 Courts and provided to petitioners by the circuit clerk.

23 (5) In all proceedings under Sections 4, 6, 9, and 11 of this Act, it shall be the duty of  
 24 the county attorney to assist the petitioner, to represent the interest of the  
 25 Commonwealth, and to assist the court in its inquiry by the presentation of  
 26 evidence.

27 (6) (a) The District Court shall have exclusive jurisdiction over crisis aversion and

1 rights retention orders.

2 (b) The Court of Justice shall provide a protocol for twenty-four (24) hour  
3 access to crisis aversion and rights retention orders in each county. Any  
4 protocol, whether statewide or local, shall be subject to Supreme Court  
5 review and approval.

6 (7) Any judge to whom a petition is referred under this section shall have full  
7 authority to review and hear a petition and subsequently grant and enforce a  
8 crisis aversion and rights retention order.

9 (8) If the judge of the District Court in which there is a pending request for  
10 termination, modification, or enforcement of an existing crisis aversion and  
11 rights retention order is unavailable or unable to act within a reasonable time,  
12 the proceedings may be conducted by any judge of the same judicial district in  
13 accordance with court rules.

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

16 (1) (a) The court shall review a petition for a crisis aversion and rights retention  
17 order upon its filing.

18 (b) If the court finds there is a reasonable belief that the respondent poses an  
19 immediate and present danger of causing serious physical injury to self or  
20 others by purchasing, possessing, receiving, or having in his or her custody  
21 or control a firearm, the court shall, without prior notice to the respondent,  
22 issue a temporary crisis aversion and rights retention order, set a date for  
23 an evidentiary hearing within fourteen (14) days, and issue a summons to  
24 the parties.

25 (c) If the court finds there is not a reasonable belief that the respondent poses  
26 an immediate and present danger of causing serious physical injury to self  
27 or others, the court shall dismiss the petition.

1 (d) In reviewing the petition, the court shall consider the time that has elapsed  
2 since the events described in the verified petition.

3 (e) Service of the temporary crisis aversion and rights retention order,  
4 summons, and hearing order under this subsection shall be personally  
5 served on the respondent by a law enforcement officer. A summons may be  
6 reissued if service has not been made on the respondent by the fixed court  
7 date and time.

8 (2) A temporary crisis aversion and rights retention order shall:

9 (a) Prohibit the respondent from purchasing, possessing, receiving, or having  
10 in his or her custody or control a firearm, or attempting to purchase or  
11 receive a firearm until a hearing on issuing a crisis aversion and rights  
12 retention order can be held under Section 6 of this Act;

13 (b) Order the surrender of the respondent's firearms under Section 10 of this  
14 Act until a hearing to determine whether to issue a crisis aversion and  
15 rights retention order can be held under Section 6 of this Act; and

16 (c) Include:

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

20 2. A description of the requirements for surrender of firearms under  
21 Section 10 of this Act;

22 3. The grounds supporting issuance of the order;

23 4. A notice of the hearing to determine whether to issue a crisis aversion  
24 and rights retention order, including the address of the court and the  
25 date and time when the hearing is scheduled;

26 5. A statement that, whether the respondent attends the hearing or not,  
27 the court will rule on whether to convert the temporary order to a

1                   crisis aversion and rights retention order for a period not to exceed  
2                   one (1) year, and that orders are renewable under Section 9 of this  
3                   Act; and

4                   6. A statement that the respondent has the right to be represented by  
5                   counsel at all phases of the proceedings, and that an attorney shall be  
6                   appointed for indigent respondents upon request of the court.

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

9                   (1) Prior to or at a hearing for a crisis aversion and rights retention order, the court  
10                   may obtain the respondent's criminal and protective order history, and any such  
11                   information obtained shall be provided to the petitioner and respondent in  
12                   accordance with the Rules of Civil Procedure.

13                   (2) The respondent may ask the court for an extension of time prior to the hearing to  
14                   determine if a crisis aversion and rights retention order shall be issued.

15                   (3) Prior to the hearing, a respondent who is not represented by counsel may request  
16                   the court appoint counsel to him or her. A respondent shall be entitled to  
17                   representation by the Department of Public Advocacy if he or she is a needy  
18                   person under KRS Chapter 31.

19                   (4) (a) If the respondent is not present at the hearing ordered pursuant to Section 4  
20                   of this Act and has not been served, a previously issued temporary crisis  
21                   aversion and rights retention order shall remain in place, and the court  
22                   shall direct the issuance of a new summons for a hearing set not more than  
23                   fourteen (14) days in the future. If service has not been made on the  
24                   respondent before that hearing or a subsequent hearing, the temporary  
25                   crisis aversion and rights retention order shall remain in place, and the  
26                   court shall continue the hearing and issue a new summons with a new date  
27                   and time for the hearing to occur, which shall be within fourteen (14) days

1 of the previously scheduled hearing date. The court shall repeat the process  
2 of continuing the hearing and reissuing a new summons until the  
3 respondent is served in advance of the scheduled hearing. If service has not  
4 been made on the respondent at least seventy-two (72) hours prior to the  
5 scheduled hearing, the court may continue the hearing no more than  
6 fourteen (14) days in the future. In issuing the summons, the court shall  
7 simultaneously transmit a copy of the summons or notice of its issuance  
8 and provisions to the petitioner.

9 (b) The provisions of this section permitting the continuance of a temporary  
10 crisis aversion and rights retention order shall be limited to six (6) months  
11 from the issuance of the temporary crisis aversion and rights retention  
12 order. If the respondent has not been served within that period, the order  
13 shall be rescinded without prejudice. Prior to the expiration of the  
14 temporary crisis aversion and rights retention order, the court shall provide  
15 notice to the petitioner stating that, if the petitioner does not file a new  
16 petition, the order shall be rescinded without prejudice.

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

19 (1) When a hearing is ordered under Section 4 of this Act, the court shall consider  
20 all admissible evidence presented by the petitioner and the respondent, and may  
21 also consider other admissible evidence.

22 (2) Following a hearing ordered under Section 4 of this Act, if a court finds by clear  
23 and convincing evidence that the respondent will pose an immediate and present  
24 danger of serious physical injury to self or others if permitted to purchase,  
25 possess, receive, or have in his or her custody or control a firearm, the court shall  
26 issue a crisis aversion and rights retention order that:

27 (a) Prohibits the respondent from purchasing, possessing, receiving, or having

1 in his or her custody or control a firearm, or attempting to purchase or  
2 receive a firearm from the date the order is issued until the order expires  
3 not to exceed one (1) year from the date of issue; and

4 (b) Orders the surrender of firearms under Section 10 of this Act until the  
5 order expires.

6 (3) A crisis aversion and rights retention order shall be effective for a period of time  
7 fixed by the court, not to exceed one (1) year, and may be reissued upon  
8 expiration pursuant to Section 9 of this Act for subsequent periods of up to one  
9 (1) year each.

10 (4) A crisis aversion and rights retention order shall include:

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

14 (b) A description of the requirements for surrender of firearms and the option  
15 of transfer to a responsible party under Section 10 of this Act;

16 (c) The grounds supporting issuance of the order;

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

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

19 (f) A statement that the respondent shall have the right to request a hearing to  
20 terminate the order once every ninety (90) days during its effective period  
21 for orders of one hundred twenty (120) days or longer; and

22 (g) A statement that the respondent may request that an attorney be appointed  
23 under Section 5 of this Act.

24 (5) When appropriate, the court may provide the respondent with information  
25 regarding locally available resources to assist persons in crisis.

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

- 1 (1) A crisis aversion and rights retention order shall become effective and binding on  
2 the respondent when the respondent is given notice of the existence and terms of  
3 the order by a law enforcement officer, the court, or upon personal service of the  
4 order, whichever is earlier. A law enforcement officer or court giving notice of an  
5 unserved order shall make all reasonable efforts to arrange for the order's  
6 personal service upon the respondent. Once effective, a law enforcement officer  
7 or the court may enforce the order's terms and act immediately upon their  
8 violation.
- 9 (2) Costs, fees, or bond shall not be assessed against or required of a petitioner for  
10 any filing, hearing, service, or order authorized by or required to implement  
11 Sections 1 to 16 of this Act.
- 12 (3) Upon proper filing of a motion, either party may seek to terminate or renew a  
13 crisis aversion and rights retention order if there has been a material change in  
14 circumstances or if there is new evidence to present, as provided in Section 9 of  
15 this Act.
- 16 (4) Testimony offered by a petitioner or a respondent in a hearing ordered pursuant  
17 to Section 4 of this Act shall not be admissible in any criminal proceeding except  
18 for purposes of impeachment.
- 19 (5) The court records of a respondent made in all proceedings pursuant to Sections 1  
20 to 16 of this Act shall be confidential and shall not be open to the general public  
21 for inspection, with the exception of law enforcement officers. Aggregate  
22 statistical data about the number of crisis aversion and rights retention orders  
23 requested, issued, renewed, denied, dissolved, or terminated shall be made  
24 available by the Administrative Office of the Courts to the public upon request.
- 25 (6) If a petition made under Section 3 of this Act does not result in the issuance of a  
26 crisis aversion and rights retention order, the court in which the petition was  
27 heard shall order the expungement of the records of the case after thirty (30) days



1 have elapsed since the case was dismissed, in accordance with KRS 431.076,  
2 unless the respondent requests in writing to preserve the record.

3 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO  
4 READ AS FOLLOWS:

5 (1) Within twenty-four (24) hours of issuing, recognizing, renewing, dissolving, or  
6 terminating a summons or a crisis aversion and rights retention order under  
7 Sections 1 to 16 of this Act, the court shall forward, by the most expedient means  
8 reasonably available, a copy of each to the appropriate agency designated for  
9 entry of orders of protection into the Law Information Network of Kentucky, to  
10 the agency assigned service, and to the Department of Kentucky State Police.

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

16 (3) (a) All forms, affidavits, and protection orders issued or filed pursuant to  
17 Sections 1 to 16 of this Act which require entry into the Law Information  
18 Network of Kentucky shall be entered on forms prescribed by the  
19 Administrative Office of the Courts after consultation with the Justice and  
20 Public Safety Cabinet.

21 (b) The information required to be submitted to the Law Information Network  
22 of Kentucky pursuant to this section shall include identifying information  
23 about the respondent and the date the order was issued, renewed, dissolved,  
24 or terminated. In the case of a crisis aversion and rights retention order, the  
25 court shall include the date the order is set to expire. The court shall also  
26 indicate whether the respondent to a crisis aversion and rights retention  
27 order was present in court to be advised of the contents of the order or if the

1           respondent failed to appear. The respondent's presence in court shall  
2           constitute proof of service of notice of the terms of the order.

3   (4) The Department of Kentucky State Police shall immediately make information  
4   about a crisis aversion and rights retention order issued, recognized, renewed, or  
5   terminated pursuant to Sections 1 to 16 of this Act available to the National  
6   Instant Criminal Background Check System for the purposes of firearm  
7   purchaser background checks.

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

10   (1) (a) A respondent to a crisis aversion and rights retention order issued under  
11   Section 6 of this Act and effective for one hundred twenty (120) days or  
12   longer may submit to the issuing court a written request to terminate the  
13   order once every ninety (90) days during the effective period of the order.  
14   The respondent may request a hearing on the request for termination.

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

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

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

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

21   (d) The respondent seeking termination of the order shall have the burden of  
22   proving by clear and convincing evidence that the respondent will not pose  
23   an immediate and present danger of causing serious physical injury to self  
24   or others if permitted to purchase, possess, receive, or have in his or her  
25   custody or control a firearm.

26   (e) The court may consider proof of crisis intervention, treatment, or services  
27   received by the respondent while subject to a crisis aversion and rights

- 1           retention order as evidence in favor of termination of the order.
- 2           (f) If the court finds after the hearing that the respondent has met his or her  
3           burden, the court shall terminate the order.
- 4           (2) For crisis aversion and rights retention orders effective for more than ninety (90)  
5           days, the issuing court shall notify the petitioner that the order is set to expire at  
6           least thirty (30) days before expiration. The notice shall advise the petitioner of  
7           the procedures for seeking a renewal of the order pursuant to this section.
- 8           (3) (a) A petitioner may request a renewal of a crisis aversion and rights retention  
9           order at any time during the ninety (90) day period preceding the expiration  
10           of the order.
- 11           (b) Renewal proceedings for a crisis aversion and rights retention order shall  
12           be heard by a judge of the District Court which issued the existing order,  
13           and the existing crisis aversion and rights retention order shall remain in  
14           effect until the court holds the hearing.
- 15           (c) The court may, after notice and a hearing, renew a crisis aversion and  
16           rights retention order issued under Section 6 of this Act for up to one (1)  
17           year after the prior date of expiration if the court finds by clear and  
18           convincing evidence that the respondent will continue to pose an immediate  
19           and present danger of causing serious physical injury to self or others if  
20           permitted to purchase, possess, receive, or have in his or her custody or  
21           control a firearm.
- 22           (d) In determining whether to renew a crisis aversion and rights retention order  
23           issued under Section 6 of this Act, the court shall consider all relevant  
24           evidence presented by the petitioner and the respondent, and may also  
25           consider other relevant evidence.
- 26           (e) A crisis aversion and rights order renewed pursuant to this section shall be  
27           subject to termination by further order of the court at a hearing held

1           pursuant to subsection (1) of this section or further renewed by order of the  
2           court pursuant to this subsection.

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

5           (1) Upon issuance of a crisis aversion and rights retention order, the court shall:

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

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

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

12           2. Provide notice to those adults that the respondent is prohibited from  
13           having firearms in his or her custody or control while the order is in  
14           effect.

15           (2) (a) If an order becomes binding and effective upon a respondent after personal  
16           service of the order by a law enforcement officer, the respondent shall  
17           surrender all firearms to the control of the law enforcement officer serving  
18           the order; or

19           (b) If an order becomes binding and effective upon a respondent after the  
20           respondent is given notice of the existence and terms of the order by a law  
21           enforcement officer or the court, the law enforcement officer or the court  
22           shall inform the respondent of the time, place, and manner of the surrender  
23           to local law enforcement.

24           (3) At the time of surrender, a law enforcement officer taking possession of a firearm  
25           pursuant to a crisis aversion and rights retention order shall issue a receipt  
26           identifying all firearms that have been surrendered and provide a copy of the  
27           receipt to the respondent. The officer serving the order shall file the original

1 receipt with the court that issued the crisis aversion and rights retention order,  
2 and shall ensure that the law enforcement agency retains a copy of the receipt.

3 (4) After firearms have been surrendered to a local law enforcement agency  
4 pursuant to a crisis aversion and rights retention order, the respondent or the  
5 rightful owner of the firearm, as applicable, may petition the issuing court to  
6 order the law enforcement agency to transfer the firearm to:

7 (a) A responsible party;

8 (b) An individual who possesses a valid federal firearms license issued under  
9 18 U.S.C. sec. 923 for storage or an eventual lawful sale whose terms are  
10 mutually agreed upon between the licensee and the respondent or rightful  
11 owner, as applicable; or

12 (c) The Department of Kentucky State Police under KRS 95.435, to be sold at  
13 public auction under KRS 16.220, with proceeds returned to the respondent  
14 or the rightful owner of the firearm, as applicable.

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

17 (1) A court that has probable cause to believe a respondent to a crisis aversion and  
18 rights retention order possesses, or has in his or her custody or control firearms  
19 that he or she has failed to surrender pursuant to Sections 1 to 16 of this Act, or  
20 has received or purchased firearms while subject to the order, shall issue a search  
21 warrant describing the firearms and authorizing a search of any location where  
22 the firearms are reasonably believed to be and order the seizure of any firearms  
23 discovered pursuant to such search.

24 (2) Firearms seized under this section shall be processed in the same manner as  
25 firearms surrendered under Section 10 of this Act.

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

1 (1) (a) A law enforcement agency storing a firearm surrendered under Section 10  
2 of this Act or seized under Section 11 of this Act shall use reasonable care  
3 to ensure that the firearm is not lost or damaged, and the law enforcement  
4 agency is prohibited from permanently marking the firearm for  
5 identification or other purposes.

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

9 (2) When a crisis aversion and risk retention order is terminated or expires, a law  
10 enforcement agency holding any firearm that has been surrendered pursuant to  
11 Section 10 of this Act or seized under Section 11 of this Act shall notify the  
12 respondent that he or she may request the return of the firearm. A law  
13 enforcement agency shall return any surrendered or seized firearm requested by  
14 a respondent only after confirming, through a background check, that the  
15 respondent is currently eligible to possess firearms.

16 (3) (a) Any firearm which was surrendered by a respondent pursuant to Section 10  
17 of this Act and that remains unclaimed or has not been transferred by the  
18 lawful owner one (1) year after any crisis aversion and rights retention  
19 order has expired or terminated shall be treated as unclaimed property  
20 under KRS Chapter 393A.

21 (b) Any firearm which was seized under Section 11 of this Act and that remains  
22 unclaimed or has not been transferred by the lawful owner six (6) years  
23 after any crisis aversion and rights retention order has expired or  
24 terminated shall be treated as unclaimed property under KRS Chapter  
25 393A.

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

1 (1) A person who knowingly files a petition for any crisis aversion and rights  
2 retention order, knowing the information in the petition to be materially false or  
3 with an intent to harass the respondent, is guilty of Class A misdemeanor.

4 (2) A person who knowingly purchases, possesses, receives, or has in his or her  
5 custody or control a firearm with knowledge that he or she is prohibited from  
6 doing so by any crisis aversion and rights retention order:

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

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

11 (3) If a respondent subject to a crisis aversion and rights retention order has  
12 transferred a firearm to a responsible party, and the responsible party  
13 intentionally or wantonly allows the respondent access to any firearm, the  
14 responsible party is guilty of a Class A misdemeanor.

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

17 The Commonwealth of Kentucky shall recognize and enforce orders from other states  
18 that are substantially similar to temporary crisis aversion and rights retention orders or  
19 crisis aversion and rights retention orders, provided that:

20 (1) The order is filed with a court of competent jurisdiction within the  
21 Commonwealth;

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

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

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

1 *Nothing in Sections 1 to 16 of this Act shall be construed to authorize a warrantless*  
2 *search or seizure by a law enforcement officer if a warrant would otherwise be*  
3 *required.*

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

6 *Sections 1 to 16 of this Act shall not be construed to impose criminal or civil liability*  
7 *on any person who chooses not to seek a crisis aversion and rights retention order.*

8 ➔Section 17. KRS 31.110 is amended to read as follows:

9 (1) A needy person who is being detained by a law enforcement officer, on suspicion of  
10 having committed, or who is under formal charge of having committed, or is being  
11 detained under a conviction of, a serious crime, or who is accused of having  
12 committed a public or status offense or who has been committed to the Department  
13 of Juvenile Justice or Cabinet for Health and Family Services for having committed  
14 a public or status offense as those are defined by KRS 610.010(1), 610.010(2)(a),  
15 (b), (c), or 630.020(2), *or who is a respondent under Sections 1 to 16 of this Act,* is  
16 entitled:

17 (a) To be represented by an attorney to the same extent as a person having his or  
18 her own counsel is so entitled; and

19 (b) Except as provided in subsection (2)(c) of this section, to be provided with the  
20 necessary services and facilities of representation, including investigation and  
21 other preparation. The courts in which the defendant is tried shall waive all  
22 costs.

23 (2) A needy person who is entitled to be represented by an attorney under subsection  
24 (1) of this section is entitled:

25 (a) To be counseled and defended at all stages of the matter beginning with the  
26 earliest time when a person providing his or her own counsel would be  
27 entitled to be represented by an attorney and including revocation of probation



1 or parole;

2 (b) To be represented in any appeal; and

3 (c) To be represented in any other post-conviction, or, if a minor under the age of  
4 eighteen (18), post-disposition proceeding, including any appeal from a post-  
5 conviction or post-disposition action. However, if the department and the  
6 court of competent jurisdiction determines that it is not a proceeding that a  
7 reasonable person with adequate means would be willing to bring at his or her  
8 own expense, there shall be no further right to be represented by counsel  
9 under the provisions of this chapter. In cases involving a minor under the age  
10 of eighteen (18), prior to making a determination on whether or not a post-  
11 disposition action is a proceeding that a reasonable person with adequate  
12 means would be willing to bring at his or her own expense, an attorney with  
13 the department shall be granted access to the court file of the minor:

14 1. Without the requirement of a formal court order in which the attorney  
15 has provided a release signed by the minor or the minor's legal guardian  
16 authorizing the use of the records; and

17 2. Notwithstanding any other statute prohibiting the disclosure of a  
18 juvenile court file.

19 (3) A needy person's right to a benefit under subsection (1) or (2) of this section is not  
20 affected by his or her having provided a similar benefit at his or her own expense, or  
21 by he or she having waived it, at an earlier stage.

22 (4) A person, whether a needy person or not, who is a minor under the age of eighteen  
23 (18) and who is in the custody of the Department of Juvenile Justice and is residing  
24 in a residential treatment center or detention center is entitled to be represented on a  
25 legal claim related to his or her confinement involving violations of federal or state  
26 statutory rights or constitutional rights. Prior to representation, an attorney with the  
27 department shall be granted access to the court file of the minor and residential

1 treatment center or detention center records pertaining to the juvenile:

2 (a) Without entering an appearance as an attorney of record; and

3 (b) Notwithstanding any other statute prohibiting the disclosure of a juvenile's  
4 record, including KRS 15A.0651, 610.320, 610.340, or 610.345.

5 (5) A person, whether a needy person or not, who is subject to a proceeding under KRS  
6 Chapter 202C and is unrepresented at any time shall be entitled to the same rights of  
7 representation as a needy person under subsection (1) of this section.

8 ➔Section 18. KRS 431.015 is amended to read as follows:

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

15 (b) A peace officer may make an arrest instead of issuing a citation for a  
16 misdemeanor committed in his or her presence if the misdemeanor is:

17 1. A violation of KRS Chapter 508, 510, or 527, or KRS 189A.010,  
18 511.050, 511.085, 514.110, or 523.110;

19 2. An offense in which the defendant poses a risk of danger to himself,  
20 herself, or another person; or

21 3. An offense in which the defendant refuses to follow the peace officer's  
22 reasonable instructions.

23 (c) A peace officer shall make an arrest for violations of protective orders issued  
24 pursuant to KRS 403.715 to 403.785~~1-01~~ an order of protection as defined in  
25 KRS 456.010, **or a crisis aversion and rights retention order issued under**  
26 **Section 4 or 6 of this Act.**

27 (d) A peace officer may make an arrest or may issue a citation for a violation of

1 KRS 508.030 which occurs in a hospital pursuant to KRS 431.005(1)(f).

2 (2) A peace officer may issue a citation instead of making an arrest for a violation  
3 committed in his or her presence but may not make a physical arrest unless there are  
4 reasonable grounds to believe that the defendant, if a citation is issued, will not  
5 appear at the designated time or unless the offense charged is a violation of KRS  
6 189.223, 189.290, 189.393, 189.520, 189.580, 235.240, 281.600, 511.080, or  
7 525.070 committed in his or her presence or a violation of KRS 189A.010, not  
8 committed in his or her presence, for which an arrest without a warrant is permitted  
9 under KRS 431.005(1)(e).

10 (3) A peace officer may issue a citation when he or she has probable cause to believe  
11 that the person being issued the citation has committed a misdemeanor outside of  
12 his or her presence, if there are reasonable grounds to believe that the person being  
13 cited will appear to answer the charge. The citation shall provide that the defendant  
14 shall appear within a designated time.

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

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

21 ➔Section 19. KRS 431.076 is amended to read as follows:

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

23 1. An order of acquittal of criminal charges against a person;~~[-, or enters]~~

24 2. An order dismissing with prejudice all criminal charges in a case against  
25 a person and not in exchange for a guilty plea to another charge; or[-]

26 3. *An order dismissing a petition for a crisis aversion and rights*  
27 *retention order under Section 4 of this Act;*

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

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

12 (c) A person against whom felony charges originally filed in the District Court  
13 have not resulted in an indictment by the grand jury or in an information filed  
14 by the Commonwealth's attorney may petition the District Court in which the  
15 charges were filed to dismiss and expunge all charges for which an indictment  
16 or information has not issued.

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

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

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

23 (c) For charges dismissed without prejudice:

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

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

- 1 (3) (a) If the court finds that the petition under subsection (1)(b) of this section is  
2 properly brought, the court shall grant the petition and order the expunging of  
3 the records.
- 4 (b) 1. If the expungement petition is brought under subsection (1)(c) of this  
5 section, the petition shall be served upon the offices of the county and  
6 Commonwealth's attorneys that prosecuted the case.
- 7 2. Following the filing of the petition, the court shall notify the county and  
8 Commonwealth's attorneys of an opportunity for a response to the  
9 petition. The response shall be filed within ninety (90) days after the  
10 filing of the petition.
- 11 3. If a response is not filed, ninety (90) days after the filing of the petition  
12 the court shall dismiss the charges without prejudice and order the  
13 expunging of the records.
- 14 4. If a response is filed, ninety (90) days after the date the response is filed,  
15 if an indictment has not issued, the court shall dismiss without prejudice  
16 the charges for which an indictment has not issued and order the  
17 expunging of the records.
- 18 (4) An order of expungement pursuant to this section shall expunge all criminal records  
19 in the custody of the court and any criminal records in the custody of any other  
20 agency or official, including law enforcement records, but no order of expungement  
21 pursuant to this section shall expunge records in the custody of the Department for  
22 Community Based Services. The court shall order the expunging on a form  
23 provided by the Administrative Office of the Courts. Every agency, with records  
24 relating to the arrest, charge, or other matters arising out of the arrest or charge, that  
25 is ordered to expunge records, shall certify to the court within sixty (60) days of the  
26 entry of the expungement order, that the required expunging action has been  
27 completed. All orders enforcing the expungement procedure shall also be expunged.

- 1 (5) (a) If an expungement is ordered under subsection (1)(a) or (b) of this section, an  
2 appellate court which issued an opinion in the case shall order the appellate  
3 case file to be sealed and also direct that the version of the appellate opinion  
4 published on the court's Web site be modified to avoid use of the defendant's  
5 name in the case title and body of the opinion.
- 6 (b) If an expungement is ordered under subsection (1)(c) of this section, an  
7 appellate court which issued an opinion in the case may, upon motion of the  
8 petitioner in the case, order the appellate case file to be sealed and also direct  
9 that the version of the appellate opinion published on the court's Web site be  
10 modified to avoid use of the petitioner's name in the case title and body of the  
11 opinion.
- 12 (6) After the expungement, the proceedings in the matter shall be deemed never to have  
13 occurred. The court and other agencies shall delete or remove the records from their  
14 computer systems so that any official state-performed background check will  
15 indicate that the records do not exist. The court and other agencies shall reply to any  
16 inquiry that no record exists on the matter. The person whose record is expunged  
17 shall not have to disclose the fact of the record or any matter relating thereto on an  
18 application for employment, credit, or other type of application.
- 19 (7) Inspection of the records included in the order may thereafter be permitted by the  
20 court only upon petition by the person who is the subject of the records and only to  
21 those persons named in the petition.
- 22 (8) Except as provided in subsection (1)(a) of this section, this section shall be  
23 retroactive.