

1 AN ACT relating to risk protection 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 (1) As used in this section:

6 (a) "Firearm" has the same meaning as in KRS 237.060; and

7 (b) "Qualified mental health professional" has the same meaning as in KRS
8 202A.011.

9 (2) Proceedings under this section shall be initiated by the filing of a verified petition
10 in the District Court of the county in which the respondent resides.

11 (3) The petition and all subsequent court documents shall be entitled: "In the
12 interest of (name of respondent)."

13 (4) The petition shall be filed by a qualified mental health professional, peace officer,
14 county attorney, Commonwealth's attorney, spouse, relative, friend, or guardian
15 of the individual concerning whom the petition is filed, or any other interested
16 person.

17 (5) The petition shall set forth:

18 (a) Petitioner's relationship to the respondent;

19 (b) Respondent's name, residence, and current location, if known; and

20 (c) Petitioner's belief, including the factual basis for the belief, that the
21 respondent is or has been diagnosed with or treated for a mental condition
22 that causes or is likely to cause impairment in judgment, perception, or
23 impulse control to an extent that presents an unreasonable risk to public
24 health, safety, or welfare if the person were in possession or control of a
25 firearm.

26 (6) Upon receipt of the petition, the court shall:

27 (a) Set a date for a hearing within fourteen (14) days from the filing of the

1 *petition; and*

2 *(b) Notify the respondent concerning the allegations and contents of the*
3 *petition and the date and purpose of the hearing.*

4 *(7) If after the hearing the court finds by clear and convincing evidence that the risk*
5 *to public health, safety, or welfare as described in subsection (5)(c) of this section*
6 *exists, the court shall enter an order prohibiting the respondent from purchasing,*
7 *possessing, receiving, or having in his or her custody or control a firearm.*

8 *(8) Within twenty-four (24) hours of issuing the order, the court shall forward, by the*
9 *most expedient means reasonably available, a copy of the order to the appropriate*
10 *agency designated for entry of orders of protection into the Law Information*
11 *Network of Kentucky and to the Department of Kentucky State Police.*

12 *(9) The Department of Kentucky State Police shall immediately make information*
13 *about the order available to the National Instant Criminal Background Check*
14 *System for the purpose of firearm purchaser background checks.*

15 *(10) (a) Any person found in violation of an order entered under this section shall*
16 *be guilty of a Class A misdemeanor.*

17 *(b) Any firearm possessed in violation of this section shall be subject to*
18 *forfeiture and shall be disposed of as provided in KRS 500.090.*

19 ➔Section 2. KRS 237.104 is amended to read as follows:

20 (1) A[No] person, unit of government, or governmental organization shall not, during a
21 period of disaster or emergency as specified in KRS Chapter 39A or at any other
22 time, have the right to revoke, suspend, limit the use of, or otherwise impair the
23 validity of the right of any person to purchase, transfer, loan, own, possess, carry, or
24 use a firearm, firearm part, ammunition, ammunition component, or any deadly
25 weapon or dangerous instrument.

26 (2) A[No] person, unit of government, or governmental organization shall not, during a
27 period of disaster or emergency as specified in KRS Chapter 39A or at any other

1 time, take, seize, confiscate, or impound a firearm, firearm part, ammunition,
2 ammunition component, or any deadly weapon or dangerous instrument from any
3 person.

4 (3) [The provisions of]This section shall not apply to the taking of an item specified in
5 subsection (1) or (2) of this section from a person who is:

6 (a) Forbidden to possess a firearm pursuant to KRS 527.040 **or Section 1 of this**
7 **Act;**
8 (b) Forbidden to possess a firearm pursuant to federal law;
9 (c) Violating KRS 527.020 **or Section 1 of this Act;**
10 (d) In possession of a stolen firearm;
11 (e) Using a firearm in the commission of a separate criminal offense; or
12 (f) Using a firearm or other weapon in the commission of an offense under KRS
13 Chapter 150.

14 ➔Section 3. This Act may be cited as Diego's Law.