

1 AN ACT relating to public safety.

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

3 ➔Section 1. KRS 500.080 is amended to read as follows:

4 As used in the Kentucky Penal Code, unless the context otherwise requires:

- 5 (1) "Actor" means any natural person and, where relevant, a corporation or an
6 unincorporated association;
- 7 (2) "Crime" means a misdemeanor or a felony;
- 8 (3) "Dangerous instrument" means any instrument, including parts of the human body
9 when a serious physical injury is a direct result of the use of that part of the human
10 body, article, or substance which, under the circumstances in which it is used,
11 attempted to be used, or threatened to be used, is readily capable of causing death or
12 serious physical injury;
- 13 (4) "Deadly weapon" means any of the following:
- 14 (a) A weapon of mass destruction;
- 15 (b) Any weapon from which a shot, readily capable of producing death or other
16 serious physical injury, may be discharged;
- 17 (c) Any knife other than an ordinary pocket knife or hunting knife;
- 18 (d) Billy, nightstick, or club;
- 19 (e) Blackjack or slapjack;
- 20 (f) Nunchaku karate sticks;
- 21 (g) Shuriken or death star; or
- 22 (h) Artificial knuckles made from metal, plastic, or other similar hard material;
- 23 (5) "Felony" means an offense for which a sentence to a term of imprisonment of at
24 least one (1) year in the custody of the Department of Corrections may be imposed;
- 25 (6) "Government" means the United States, any state, county, municipality, or other
26 political unit, or any department, agency, or subdivision of any of the foregoing, or
27 any corporation or other association carrying out the functions of government;

- 1 (7) "He" means any natural person and, where relevant, a corporation or an
2 unincorporated association;
- 3 (8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions.
4 Unless the context otherwise clearly requires, "law" also includes the common law;
- 5 (9) "Minor" means any person who has not reached the age of majority as defined in
6 KRS 2.015;
- 7 (10) "Misdemeanor" means an offense, other than a traffic infraction, for which a
8 sentence to a term of imprisonment of not more than twelve (12) months can be
9 imposed;
- 10 (11) "Offense" means conduct for which a sentence to a term of imprisonment or to a
11 fine is provided by any law of this state or by any law, local law, or ordinance of a
12 political subdivision of this state or by any law, order, rule, or regulation of any
13 governmental instrumentality authorized by law to adopt the same;
- 14 (12) "Person" means a human being, and where appropriate, a public or private
15 corporation, an unincorporated association, a partnership, a government, or a
16 governmental authority;
- 17 (13) "Physical injury" means substantial physical pain or any impairment of physical
18 condition;
- 19 (14) "Possession" means to have actual physical possession or otherwise to exercise
20 actual dominion or control over a tangible object;
- 21 (15) **"Riot" means violent and unlawful overt action, committed by an assemblage of**
22 **five (5) or more persons, which causes a public disturbance that creates**
23 **substantial imminent risk of damage to property or physical injury to a person;**
- 24 **(16)** "Serious physical injury" means physical injury which creates a substantial risk of
25 death, or which causes serious and prolonged disfigurement, prolonged impairment
26 of health, or prolonged loss or impairment of the function of any bodily organ. For a
27 child twelve (12) years of age or less at the time of the injury, a serious physical

1 injury includes but is not limited to the following:

- 2 (a) Bruising near the eyes, or on the head, neck, or lower back overlying the
3 kidneys;
- 4 (b) Any bruising severe enough to cause underlying muscle damage as
5 determined by elevated creatine kinase levels in the blood;
- 6 (c) Any bruising or soft tissue injury to the genitals that affects the ability to
7 urinate or defecate;
- 8 (d) Any testicular injury sufficient to put fertility at risk;
- 9 (e) Any burn near the eyes or involving the mouth, airway, or esophagus;
- 10 (f) Any burn deep enough to leave scarring or dysfunction of the body;
- 11 (g) Any burn requiring hospitalization, debridement in the operating room, IV
12 fluids, intubation, or admission to a hospital's intensive care unit;
- 13 (h) Rib fracture;
- 14 (i) Scapula or sternum fractures;
- 15 (j) Any broken bone that requires surgery;
- 16 (k) Head injuries that result in intracranial bleeding, skull fracture, or brain injury;
- 17 (l) A concussion that results in the child becoming limp, unresponsive, or results
18 in seizure activity;
- 19 (m) Abdominal injuries that indicate internal organ damage regardless of whether
20 surgery is required;
- 21 (n) Any injury requiring surgery;
- 22 (o) Any injury that requires a blood transfusion; and
- 23 (p) Any injury requiring admission to a hospital's critical care unit;

24 ~~(17)~~[(16)] "Unlawful" means contrary to law or, where the context so requires, not
25 permitted by law. It does not mean wrongful or immoral;

26 ~~(18)~~[(17)] "Violation" means an offense, other than a traffic infraction, for which a
27 sentence to a fine only can be imposed; and

1 ~~(18)~~ **(19)** "Weapon of mass destruction" means:

- 2 (a) Any destructive device as defined in KRS 237.030, but not fireworks as
3 defined in KRS 227.700;
- 4 (b) Any weapon that is designed or intended to cause death or serious physical
5 injury through the release, dissemination, or impact of toxic or poisonous
6 chemicals or their precursors;
- 7 (c) Any weapon involving a disease organism; or
- 8 (d) Any weapon that is designed to release radiation or radioactivity at a level
9 dangerous to human life.

10 ➔Section 2. KRS 508.010 is amended to read as follows:

11 (1) A person is guilty of assault in the first degree when:

- 12 (a) He intentionally causes serious physical injury to another person by means of
13 a deadly weapon or a dangerous instrument; or
- 14 (b) Under circumstances manifesting extreme indifference to the value of human
15 life he wantonly engages in conduct which creates a grave risk of death to
16 another and thereby causes serious physical injury to another person.

17 (2) Assault in the first degree is a Class B felony.

18 **(3) If the offense is committed during the course of a riot, a fine of fifteen thousand**
19 **dollars (\$15,000) shall be assessed, notwithstanding KRS 534.030.**

20 ➔Section 3. KRS 508.025 is amended to read as follows:

21 (1) A person is guilty of assault in the third degree when the actor:

- 22 (a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally
23 causes or attempts to cause physical injury to:
- 24 1. A state, county, city, or federal peace officer;
- 25 2. An employee of a detention facility, or state residential treatment facility
26 or state staff secure facility for residential treatment which provides for
27 the care, treatment, or detention of a juvenile charged with or

- 1 adjudicated delinquent because of a public offense or as a youthful
2 offender;
- 3 3. An employee of the Department for Community Based Services
4 employed as a social worker to provide direct client services, if the event
5 occurs while the worker is performing job-related duties;
- 6 4. Paid or volunteer emergency medical services personnel certified or
7 licensed pursuant to KRS Chapter 311A, if the event occurs while
8 personnel are performing job-related duties;
- 9 5. A paid or volunteer member of an organized fire department, if the event
10 occurs while the member is performing job-related duties;
- 11 6. Paid or volunteer rescue squad personnel affiliated with the Division of
12 Emergency Management of the Department of Military Affairs or a local
13 disaster and emergency services organization pursuant to KRS Chapter
14 39F, if the event occurs while personnel are performing job-related
15 duties;
- 16 7. A probation and parole officer;
- 17 8. A transportation officer appointed by a county fiscal court or legislative
18 body of a consolidated local government, urban-county government, or
19 charter government to transport inmates when the county jail or county
20 correctional facility is closed while the transportation officer is
21 performing job-related duties;
- 22 9. A public or private elementary or secondary school or school district
23 classified or certified employee, school bus driver, or other school
24 employee acting in the course and scope of the employee's employment;
25 or
- 26 10. A public or private elementary or secondary school or school district
27 volunteer acting in the course and scope of that person's volunteer

1 service for the school or school district;

2 (b) Being a person confined in a detention facility, or a juvenile in a state
3 residential treatment facility or state staff secure facility for residential
4 treatment which provides for the care, treatment, or detention of a juvenile
5 charged with or adjudicated delinquent because of a public offense or as a
6 youthful offender, inflicts physical injury upon or throws or causes feces, or
7 urine, or other bodily fluid to be thrown upon an employee of the facility; or

8 (c) Intentionally causes a person, whom the actor knows or reasonably should
9 know to be a peace officer discharging official duties, to come into contact
10 with saliva, vomit, mucus, blood, seminal fluid, urine, or feces without the
11 consent of the peace officer.

12 (2) (a) For violations of subsection (1)(a) and (b) of this section, assault in the third
13 degree is a Class D felony.

14 (b) I. For violations of subsection (1)(c) of this section, assault in the third
15 degree is a Class B misdemeanor, unless the assault is with saliva,
16 vomit, mucus, blood, seminal fluid, urine, or feces from an adult who
17 knows that he or she has a serious communicable disease and competent
18 medical or epidemiological evidence demonstrates that the specific type
19 of contact caused by the actor is likely to cause transmission of the
20 disease or condition, in which case it is a Class A misdemeanor.

21 **2. If a violation of subsection (1)(c) of this section occurs during the**
22 **course of a riot, a fine of five thousand dollars (\$5,000) shall be**
23 **assessed, notwithstanding KRS 534.040.**

24 (c) As used in paragraph (b)I. of this subsection, "serious communicable disease"
25 means a non-airborne disease that is transmitted from person to person and
26 determined to have significant, long-term consequences on the physical health
27 or life activities of the person infected.

1 *(d) Any person convicted under subsection (1)(a)1., 4., 5., or 6., or (1)(c) of this*
 2 *section for conduct during the course of a riot shall be imprisoned for no*
 3 *less than thirty (30) days and shall not be released on probation, shock*
 4 *probation, parole, conditional discharge, or any other form of early release.*

5 ➔Section 4. KRS 508.030 is amended to read as follows:

6 (1) *As used in this section, "laser" means any device designed or used to amplify*
 7 *electromagnetic radiation by stimulated emission of a beam.*

8 (2) A person is guilty of assault in the fourth degree when:

9 (a) He *or she* intentionally or wantonly causes physical injury to another person;†
 10 †

11 (b) With recklessness he *or she* causes physical injury to another person by means
 12 of a deadly weapon or a dangerous instrument; *or*

13 *(c) He or she knowingly shines or aims a laser towards the head of another*
 14 *person.*

15 ~~(3)~~(2) Assault in the fourth degree is a Class A misdemeanor.

16 ➔Section 5. KRS 511.060 is amended to read as follows:

17 (1) A person is guilty of criminal trespass in the first degree when he *or she* knowingly
 18 enters or remains unlawfully in a dwelling.

19 (2) Criminal trespass in the first degree is a Class A misdemeanor, *unless:*

20 *(a) The dwelling belongs to or is lawfully occupied by a law enforcement*
 21 *officer, active duty member of the military, judge, or elected or appointed*
 22 *federal, state, or local official; and*

23 *(b) The person acts with intent to harass a person who owns or lawfully*
 24 *occupies the dwelling due to the person's status as a law enforcement*
 25 *officer, active duty member of the military, judge, or elected or appointed*
 26 *federal, state, or local official;*

27 *in which case it is a Class D felony.*

1 ➔Section 6. KRS 511.070 is amended to read as follows:

2 (1) A person is guilty of criminal trespass in the second degree when he or she
3 knowingly enters or remains unlawfully in a building or upon premises as to which
4 notice against trespass is given by fencing or other enclosure.

5 (2) Criminal trespass in the second degree is a Class B misdemeanor, unless:

6 (a) The building or premises belong to or is lawfully occupied by a law
7 enforcement officer, active duty member of the military, judge, or elected or
8 appointed federal, state, or local official; and

9 (b) The person acts with intent to harass a person who owns or lawfully
10 occupies the building or premises due to the person's status as a law
11 enforcement officer, active duty member of the military, judge, or elected or
12 appointed federal, state, or local official;

13 in which case it is a Class A misdemeanor.

14 ➔Section 7. KRS 511.080 is amended to read as follows:

15 (1) A person is guilty of criminal trespass in the third degree when he or she knowingly
16 enters or remains unlawfully in or upon premises.

17 (2) Criminal trespass in the third degree is a violation, unless:

18 (a) The premises belong to or are lawfully occupied by a law enforcement
19 officer, active duty member of the military, judge, or elected or appointed
20 federal, state, or local official; and

21 (b) The person acts with intent to harass a person who owns or lawfully
22 occupies the premises due to the person's status as a law enforcement
23 officer, active duty member of the military, judge, or elected or appointed
24 federal, state, or local official;

25 in which case it is a Class B misdemeanor.

26 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 512 IS CREATED TO
27 READ AS FOLLOWS:

1 *In any conviction for a violation of Section 9 of this Act, 512.030, or 512.040*
 2 *committed during the course of a riot, the court shall order full restitution for any*
 3 *pecuniary loss.*

4 ➔Section 9. KRS 512.020 is amended to read as follows:

- 5 (1) A person is guilty of criminal mischief in the first degree when, having no right to
 6 do so or any reasonable ground to believe that he or she has such right, he or she
 7 intentionally or wantonly:
- 8 (a) Defaces, destroys, or damages any property causing pecuniary loss of one
 9 thousand dollars (\$1,000) or more;
- 10 (b) Tamper with the operations of a key infrastructure asset, as defined in KRS
 11 511.100, in a manner that renders the operations harmful or dangerous; or
- 12 (c) As a tenant, intentionally or wantonly defaces, destroys, or damages
 13 residential rental property causing pecuniary loss of one thousand dollars
 14 (\$1,000) or more.
- 15 (2) Criminal mischief in the first degree is a Class D felony.

16 *(3) If the offense is committed during the course of a riot, a fine of five thousand*
 17 *dollars (\$5,000) shall be assessed, notwithstanding KRS 534.030.*

18 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO
 19 READ AS FOLLOWS:

20 *In any conviction for a violation of Sections 11 or 12 of this Act or KRS 525.040, the*
 21 *court shall order full restitution for any pecuniary loss.*

22 ➔Section 11. KRS 525.020 is amended to read as follows:

- 23 (1) A person is guilty of riot in the first degree when:
- 24 (a) *1. He or she knowingly participates in a riot; ~~or~~ and*
 25 *2. He or she knowingly provides supplies to a participant in a riot that he*
 26 *or she knows could be used as weapons or dangerous instruments;*
 27 *and*

1 (b) In the course of and as a result of such riot a person other than one (1) of the
2 participants suffers physical injury or substantial property damage occurs.

3 (2) Riot in the first degree is a Class D felony.

4 **(3) Any person convicted of riot in the first degree shall be imprisoned for no less**
5 **than forty-five (45) days and shall not be released on probation, shock probation,**
6 **parole, conditional discharge, or any other form of early release.**

7 ➔Section 12. KRS 525.030 is amended to read as follows:

8 (1) A person is guilty of riot in the second degree when:

9 **(a) He or she knowingly participates in a riot; or**

10 **(b) He or she knowingly provides supplies to a participant in a riot that he or**
11 **she knows could be used as weapons or dangerous instruments.**

12 (2) Riot in the second degree is a Class A misdemeanor.

13 **(3) Any person convicted of riot in the second degree shall be imprisoned for no less**
14 **than thirty (30) days and shall not be released on probation, shock probation,**
15 **parole, conditional discharge, or any other form of early release.**

16 ➔Section 13. KRS 525.140 is amended to read as follows:

17 (1) A person is guilty of obstructing a highway or other public passage when having no
18 legal privilege to do so he **or she**, alone or with other persons, intentionally or
19 wantonly renders any highway or public passage impassable without unreasonable
20 inconvenience or hazard.

21 (2) No person shall be convicted under this section solely because of a gathering of
22 persons to hear him **or her** speak or otherwise communicate or solely because of
23 being a member of such a gathering.

24 (3) An order to disperse issued by a peace officer or other public servant engaged in
25 executing or enforcing the law and addressed to a person whose speech or other
26 lawful behavior attracts an obstructing audience shall not be deemed lawful if the
27 obstruction can be readily remedied by police control of the size or location of the

1 gathering.

2 (4) (a) Obstructing a highway or other public passage is a Class A~~[B]~~ misdemeanor,

3 unless the obstruction prevents:

4 1. An emergency vehicle from accessing a highway or street;

5 2. An emergency responder from responding to an emergency; or

6 3. Access to an emergency exit;

7 in which case it is a Class D felony.

8 (b) For purposes of this subsection:

9 1. "Emergency vehicle" means any vehicle of a governmental
 10 department or public service corporation when responding to an
 11 emergency, any vehicle of a police or fire department, and any
 12 ambulance;

13 2. "Emergency exit" means a doorway in a building or facility used for
 14 egress to the outdoors only when there is an immediate threat to the
 15 health or safety of an individual; and

16 3. "Emergency responder" has the same meaning as in KRS 525.015.

17 ➔Section 14. KRS 525.150 is amended to read as follows:

18 (1) A person is guilty of disrupting meetings and processions ~~[in the second degree~~
 19 ~~]when, with intent to prevent or disrupt a lawful meeting, procession, or gathering,~~
 20 ~~he or she does any act tending to obstruct or interfere with it physically or makes~~
 21 ~~any utterance, gesture, or display designed to outrage the sensibilities of the group.~~

22 (2) Disrupting meetings and processions~~[in the second degree]~~ is a Class A~~[B]~~
 23 misdemeanor.

24 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO
 25 READ AS FOLLOWS:

26 (1) Notwithstanding KRS 431.066 and 431.520, a person shall not be released within
 27 twelve (12) hours of the time of arrest when he or she has been charged with

1 violation of:

2 (a) Section 2, 3, 4, 5, 6, 7, 9, 13, or 14 of this Act or KRS 512.030 or 512.040

3 committed during the course of a riot; or

4 (b) Section 11 or 12 of this Act;

5 except as provided in subsection (2) of this section.

6 (2) (a) The court may release the defendant in less than twelve (12) hours if the
7 court finds that the defendant is not likely to immediately resume the
8 criminal behavior based on the circumstances of the arrest and the
9 defendant's prior criminal history.

10 (b) The findings of the court shall be reduced to writing. The written findings
11 shall be preserved as a permanent part of the record. The arresting officer
12 shall make official note of the time of the arrest in order to establish the
13 beginning of the twelve (12) hour period required by this section.

14 ➔Section 16. KRS 431.073 is amended to read as follows:

15 (1) Any person who has been:

16 (a) Convicted of a Class D felony violation of KRS 17.175, 186.990, 194A.505,
17 194B.505, 217.181, 217.207, 217.208, 218A.140, 218A.1415, 218A.1416,
18 218A.1417, 218A.1418, 218A.1423, 218A.1439, 218A.282, 218A.284,
19 218A.286, 218A.320, 218A.322, 218A.324, 218A.500, 244.165, 286.11-057,
20 304.47-025, 324.990, 365.241, 434.155, 434.675, 434.850, 434.872, 511.040,
21 512.020, 514.030, 514.040, 514.050, 514.060, 514.065, 514.070, 514.080,
22 514.090, 514.100, 514.110, 514.120, 514.140, 514.150, 514.160, 516.030,
23 516.060, 516.090, 516.108, 517.120, 518.040, 522.040, 524.100, 525.113,
24 526.020, 526.030, 528.020, 528.040, 528.050, 530.010, or 530.050;

25 (b) Convicted of a series of Class D felony violations of one (1) or more statutes
26 enumerated in paragraph (a) of this subsection arising from a single incident;

27 (c) Granted a full pardon; or

1 (d) Convicted of a Class D felony, or an offense prior to January 1, 1975 which
2 was punishable by not more than five (5) years' incarceration, which was not a
3 violation of KRS 189A.010, 508.032,~~or~~ 519.055, **or Section 11 of this Act;**
4 **Sections 3, 5, 9, or 13 of this Act committed during the course of a riot;**
5 abuse of public office;~~;~~ a sex offense;~~;~~ or an offense committed against a
6 child;~~;~~ and did not result in serious bodily injury or death; or of a series of
7 felony offenses eligible under this paragraph;

8 may file with the court in which he or she was convicted an application to have the
9 judgment vacated. The application shall be filed as a motion in the original criminal
10 case. The person shall be informed of the right at the time of adjudication.

11 (2) (a) A verified application to have the judgment vacated under this section shall be
12 filed no sooner than five (5) years after the completion of the person's
13 sentence, or five (5) years after the successful completion of the person's
14 probation or parole, whichever occurs later.

15 (b) Upon the payment of the filing fee and the filing of the application, the Circuit
16 Court clerk shall serve a notice of filing upon the office of the
17 Commonwealth's attorney or county attorney that prosecuted the case and the
18 county attorney of the county where the judgment was entered. The office of
19 the Commonwealth's attorney or county attorney that prosecuted the case shall
20 file a response within sixty (60) days after being served with the notice of
21 filing. That time period may be extended for good cause, but the hearing on
22 the application to vacate the judgment shall occur no later than one hundred
23 twenty (120) days following the filing of the application. The inability to
24 determine the location of the crime victim shall constitute good cause for an
25 extension of time. No hearing upon the merits of the application shall be
26 scheduled until the Commonwealth's response has been filed, or if no
27 response is received, no later than one hundred twenty (120) days after the

1 filing of the application.

2 (c) In any case in which the Commonwealth objects that the application is grossly
3 incomplete, the court shall order the person or agency originating the
4 application to supplement the application.

5 (3) Upon the filing of the Commonwealth's response to an application, or if no response
6 is received, no later than one hundred twenty (120) days after the filing of the
7 application, the court shall set a date for a hearing and the Circuit Court clerk shall
8 notify the office of the Commonwealth's attorney or county attorney that prosecuted
9 the case. The office of the Commonwealth's attorney or county attorney that
10 prosecuted the case shall notify the victim of the crime, if there was an identified
11 victim. The Commonwealth's attorney or county attorney shall be authorized to
12 obtain without payment of any fee information from the Transportation Cabinet
13 regarding the crime victim's address on file regarding any vehicle operator's license
14 issued to that person.

15 (4) (a) In an application pursuant to subsection (1)(d) of this section, upon the filing
16 of the Commonwealth's response objecting to the vacating of a judgment and
17 expungement of a record, the court shall schedule a hearing within one
18 hundred twenty (120) days of the Commonwealth's response. The prosecutor
19 shall specify in the objection the reasons for believing a denial of the
20 application is justified. At the hearing at which the applicant or his or her
21 attorney must be present, the applicant must prove by clear and convincing
22 evidence that:

- 23 1. Vacating the judgment and expunging the record is consistent with the
24 welfare and safety of the public;
- 25 2. The action is supported by his or her behavior since the conviction or
26 convictions, as evidenced that he or she has been active in rehabilitative
27 activities in prison and is living a law-abiding life since release;

- 1 3. The vacation and expungement is warranted by the interests of justice;
2 and
- 3 4. Any other matter deemed appropriate or necessary by the court to make
4 a determination regarding the petition for expungement is met.
- 5 (b) At the hearing, the applicant may testify as to the specific adverse
6 consequences he or she may be subject to if the application is denied. The
7 court may hear testimony of witnesses and any other matter the court deems
8 proper and relevant to its determination regarding the application. The
9 Commonwealth may present proof of any extraordinary circumstances that
10 exist to deny the application. A victim of any offense listed in the application
11 shall have an opportunity to be heard at any hearing held under this section.
- 12 (c) If the court determines that circumstances warrant vacation and expungement
13 and that the harm otherwise resulting to the applicant clearly outweighs the
14 public interest in the criminal history record information being publicly
15 available, then the original conviction or convictions shall be vacated and the
16 records shall be expunged. The order of expungement shall not preclude a
17 prosecutor's office from retaining a nonpublic record for law enforcement
18 purposes only.
- 19 (5) The court may order the judgment vacated, and if the judgment is vacated the court
20 shall dismiss with prejudice any charges which are eligible for expungement under
21 subsection (1) of this section or KRS 431.076 or 431.078, and, upon full payment of
22 the fee in subsection (11) of this section, order expunged all records in the custody
23 of the court and any records in the custody of any other agency or official, including
24 law enforcement records, if the court finds that:
- 25 (a) The person had not, after June 27, 2019, had a felony conviction vacated and
26 the record expunged pursuant to this section;
- 27 (b) The person had not in the five (5) years prior to the filing of the application to

- 1 have the judgment vacated been convicted of a felony or a misdemeanor;
- 2 (c) No proceeding concerning a felony or misdemeanor is pending or being
3 instituted against the person; and
- 4 (d) For an application pursuant to subsection (1)(d) of this section, the person has
5 been rehabilitated and poses no significant threat of recidivism.
- 6 (6) If the court has received a response from the office of the Commonwealth's attorney
7 or county attorney that prosecuted the case stating no objection to the application to
8 have the judgment vacated, or if one hundred twenty (120) days have elapsed since
9 the filing of the application and no response has been received from the victim or
10 the office of the Commonwealth's attorney or county attorney that prosecuted the
11 case, the court may, without a hearing, vacate the judgment in the manner
12 established in subsection (5) of this section.
- 13 (7) Upon entry of an order vacating and expunging a conviction, the original conviction
14 shall be vacated and, upon full payment of the fee in subsection (11) of this section,
15 the record shall be expunged. The court and other agencies shall cause records to be
16 deleted or removed from their computer systems so that the matter shall not appear
17 on official state-performed background checks. The court and other agencies shall
18 reply to any inquiry that no record exists on the matter. The person whose record is
19 expunged shall not have to disclose the fact of the record or any matter relating
20 thereto on an application for employment, credit, or other type of application. If the
21 person is not prohibited from voting for any other reason, the person's ability to vote
22 shall be restored and the person may register to vote.
- 23 (8) An order vacating a conviction under this section shall not extend or revive an
24 expired statute of limitations, shall not constitute a finding of legal error regarding
25 the proceedings leading to or resulting in the conviction, shall not nullify any
26 findings of fact or conclusions of law made by the trial court or any appellate court
27 regarding the conviction, and shall not constitute a finding of innocence regarding

1 the conviction.

2 (9) The Administrative Office of the Courts shall establish a form application to be
3 used in filing an application to have judgment vacated and records expunged.

4 (10) The filing fee for an application to have judgment vacated and records expunged
5 shall be fifty dollars (\$50), which shall be deposited into a trust and agency account
6 for deputy clerks and shall not be refundable.

7 (11) (a) Upon the issuance of an order vacating and expunging a conviction pursuant
8 to this section, the applicant shall be charged an expungement fee of two
9 hundred fifty dollars (\$250), which may be payable by an installment plan in
10 accordance with KRS 534.020.

11 (b) When the order is issued, the court shall set a date, no sooner than eighteen
12 (18) months after the date of the order, by which the defendant must comply
13 with the installment payment plan. The applicant shall be given notice of the
14 total amount due, the payment frequency, and the date by which all payments
15 must be made. The notice shall state that the expungement cannot be
16 completed until full payment is received, and that if the applicant has not
17 completed the installment payment plan by the scheduled date, he or she shall
18 appear on that date to show good cause as to why he or she is unable to satisfy
19 the obligations. Notwithstanding provisions of KRS 534.020 to the contrary,
20 no applicant shall be ordered to jail for failure to complete an installment plan
21 ordered pursuant to this section.

22 (c) The revenues and interest from the expungement fee shall be deposited in the
23 expungement fund created in KRS 431.0795.

24 (12) This section shall be retroactive.

25 ➔Section 17. KRS 533.254 is amended to read as follows:

26 (1) The provisions of KRS 533.020 relating to the period of probation shall, in so far as
27 possible, be applicable to the period of pretrial diversion except that supervision of

1 the participants in the programs shall be done by the Division of Probation and
2 Parole.

3 (2) The provisions of KRS 533.030 relating to conditions of probation and restitution
4 shall, in so far as possible, be applicable to pretrial diversion. Restitution shall be
5 ordered in all cases where a victim has suffered monetary damage as a result of the
6 alleged crime. Restitution to the state or the victim, or both, shall~~may~~ be ordered
7 in any pretrial diversion program.

8 →Section 18. KRS 411.100 is amended to read as follows:

9 (1) As used in this section, "local government" means any city, county, charter
10 county, urban-county government, consolidated local government, or unified
11 local government.

12 (2) If, within any local government:~~[city,]~~

13 (a) Any church, convent, chapel, dwelling house, house used or designed for the
14 transaction of lawful business, vessel or shipyard, railroad or property of any
15 kind belonging to any street or other railroad company, or any article of
16 personal property is damaged, or if any property is taken away or damaged by
17 any riotous or tumultuous assemblage of people; or:~~[,]~~

18 (b) Any person sustains a serious physical injury as defined in KRS 500.080 by
19 any riotous or tumultuous assemblage of people;

20 the full amount of damages~~[the damage done]~~ for personal injury or damage to
21 property may be recovered from~~[by the person injured by action against]~~ the local
22 government~~[city]~~, if the local government~~[city authorities themselves, or with the~~
23 ~~aid of their own citizens,]~~ could have prevented the damage or injury.

24 (3) However, no such liability shall be incurred by the local government~~[city]~~ unless
25 the local government~~[city]~~ authorities had notice or good reason to believe that a
26 riot or tumultuous assemblage was about to take place and were grossly negligent
27 in ~~[time to]~~ preventing ~~[prevent]~~ the destruction or injury~~[, either by their own force~~

1 ~~or by the aid of the citizens of the city].~~

2 **(4)** No person may maintain an action under this section if he ***or she*** has unlawfully
3 contributed by word or deed toward exciting or inflaming the tumult or riot, or if he
4 ***or she*** failed to do what he ***or she*** reasonably could toward preventing, allaying or
5 suppressing it.

6 **(5) Notwithstanding KRS 65.2003(3), it is the intention of the General Assembly to**
7 **provide the means to enable a person injured by the Commonwealth; its cabinets,**
8 **departments, bureaus, or agencies; its officers, agents, or employees while acting**
9 **within the scope of their employment; its political or civil subdivisions; or the**
10 **officers, agents, or employees of its political or civil subdivisions while acting**
11 **within the scope of their employment, to be able to bring an action for personal**
12 **injury or property damage resulting from circumstances presented under this**
13 **section. Such claims shall proceed only as provided in KRS 65.200 to 65.2006 or**
14 **KRS Chapter 49.**

15 **(6) No officers, agents, or employees shall be held liable for following an order or**
16 **directive from a supervisor to not act to prevent damage caused by a riot or**
17 **tumultuous assemblage.**

18 ➔Section 19. KRS 61.912 is amended to read as follows:

19 Any duly commissioned special law enforcement officer shall, while performing law
20 enforcement duties upon the public property he ***or she*** is hired to protect, be empowered
21 to arrest:

22 (1) Persons committing, in his presence and upon the public property he ***or she*** is hired
23 to protect, any misdemeanor, any traffic violation, or any other violation as defined
24 by KRS 500.080~~[(17)]~~;

25 (2) Provided there exists probable cause to believe a felony has been committed upon
26 the premises he ***or she*** is hired to protect, any person whom the officer reasonably
27 and actually believes to have committed such felony upon the public property.

1 ➔Section 20. KRS 61.914 is amended to read as follows:

2 Duly commissioned special law enforcement officers shall have the power to issue tickets
3 for parking violations committed upon the public property in their presence and the power
4 of peace officers under KRS 431.015 to issue citations for misdemeanors, and other
5 violations as defined by KRS 500.080~~[(17)]~~, committed in their presence upon the public
6 property.

7 ➔Section 21. KRS 525.010 is amended to read as follows:

8 The following definitions apply in this chapter unless the context otherwise requires:

9 (1) "Desecrate" means defacing, damaging, polluting, or otherwise physically
10 mistreating in a way that the actor knows will outrage the sensibilities of persons
11 likely to observe or discover his or her action.

12 (2) "Public" means affecting or likely to affect a substantial group of persons.

13 (3) "Public place" means a place to which the public or a substantial group of persons
14 has access and includes but is not limited to highways, transportation facilities,
15 schools, places of amusements, parks, places of business, playgrounds, and
16 hallways, lobbies, and other portions of apartment houses and hotels not
17 constituting rooms or apartments designed for actual residence. An act is deemed to
18 occur in a public place if it produces its offensive or proscribed consequences in a
19 public place.

20 (4) "Transportation facility" means any conveyance, premises, or place used for or in
21 connection with public passenger transportation by air, railroad, motor vehicle, or
22 any other method. It includes aircraft, watercraft, railroad cars, buses, and air, boat,
23 railroad, and bus terminals and stations and all appurtenances thereto.

24 ~~(5) ["Riot" means a public disturbance involving an assemblage of five (5) or more~~
25 ~~persons which by tumultuous and violent conduct creates grave danger of damage~~
26 ~~or injury to property or persons or substantially obstructs law enforcement or other~~
27 ~~government function.~~

1 ~~(6)~~—"Service animal" includes a:

- 2 (a) "Bomb detection dog," which means a dog that is trained to locate bombs or
3 explosives by scent;
- 4 (b) "Narcotic detection dog," which means a dog that is trained to locate narcotics
5 by scent;
- 6 (c) "Patrol dog," which means a dog that is trained to protect a peace officer and
7 to apprehend a person;
- 8 (d) "Tracking dog," which means a dog that is trained to track and find a missing
9 person, escaped inmate, or fleeing felon;
- 10 (e) "Search and rescue dog," which means a dog that is trained to locate lost or
11 missing persons, victims of natural or man-made disasters, and human bodies;
- 12 (f) "Accelerant detection dog," which means a dog that is trained for accelerant
13 detection, commonly referred to as arson canines;
- 14 (g) "Cadaver dog," which means a dog that is trained to find human remains;
- 15 (h) "Assistance dog," which means any dog that is trained to meet the
16 requirements of KRS 258.500;
- 17 (i) Any dog that is trained in more than one (1) of the disciplines specified in
18 paragraphs (a) to (h) of this subsection; or
- 19 (j) "Police horse," which means any horse that is owned, or the service of which
20 is employed, by a law enforcement agency for the principal purpose of aiding
21 in detection of criminal activity, enforcement of laws, and apprehension of
22 offenders.

23 ➔Section 22. KRS 525.200 is amended to read as follows:

- 24 (1) A person is guilty of assault on a service animal in the first degree when, without
25 legal justification or lawful authority:
- 26 (a) He or she intentionally kills or causes serious physical injury to a service
27 animal;

1 (b) He or she intentionally causes physical injury to a service animal by means of
2 a deadly weapon or dangerous instrument; or

3 (c) He or she wantonly causes serious physical injury to a service animal by
4 means of a deadly weapon or dangerous instrument.

5 (2) For the purposes of this section, "service animal" has the same meaning as in KRS
6 525.010, except that "service animal" does not include assistance dogs as in KRS
7 525.010~~(5)~~~~(6)~~(h).

8 (3) Assault on a service animal in the first degree is a Class D felony.

9 ➔Section 23. The following KRS section is repealed:

10 525.145 Disrupting meetings and processions in the first degree.