

1 AN ACT relating to protective orders.

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

3 ➔Section 1. KRS 403.740 is amended to read as follows:

4 (1) Following a hearing ordered under KRS 403.730, if a court finds by a
5 preponderance of the evidence that domestic violence and abuse has occurred and
6 may again occur, the court may issue a domestic violence order:

7 (a) Restraining the adverse party from:

- 8 1. Committing further acts of domestic violence and abuse;
- 9 2. Any unauthorized contact or communication with the petitioner or other
10 person specified by the court;
- 11 3. Approaching the petitioner or other person specified by the court within
12 a distance specified in the order, not to exceed five hundred (500) feet;
- 13 4. Going to or within a specified distance of a specifically described
14 residence, school, or place of employment or area where such a place is
15 located;~~and~~
- 16 5. Disposing of or damaging any of the property of the parties; ***and***
17 ***6. Using or possessing a firearm or other weapon specified by the court.***

18 ***If a court restrains a person from possessing weapons, it shall make***
19 ***additional findings pursuant to subsection (5) of this section;***

20 (b) Authorizing, at the request of the petitioner:

- 21 1. Limited contact or communication between the parties that the court
22 finds necessary; or
- 23 2. The parties to remain in a common area, which may necessitate them
24 being closer than five hundred (500) feet under limited circumstances
25 with specific parameters set forth by the court.

26 Nothing in this paragraph shall be interpreted to place any restriction or
27 restraint on the petitioner;

- 1 (c) Directing or prohibiting any other actions that the court believes will be of
2 assistance in eliminating future acts of domestic violence and abuse, except
3 that the court shall not order the petitioner to take any affirmative action;
- 4 (d) Directing that either or both of the parties receive counseling services
5 available in the community in domestic violence and abuse cases; and
- 6 (e) Additionally, if applicable:
- 7 1. Directing the adverse party to vacate a residence shared by the parties to
8 the action;
- 9 2. Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.822,
10 grant temporary custody, subject to KRS 403.315;
- 11 3. Utilizing the criteria set forth in KRS 403.211, 403.212, 403.2121, and
12 403.213, award temporary child support; and
- 13 4. Awarding possession of any shared domestic animal to the petitioner.
- 14 (2) In imposing a location restriction described in subsection (1)(a)4. of this section, the
15 court shall:
- 16 (a) Afford the petitioner and respondent, if present, an opportunity to testify on
17 the issue of the locations and areas from which the respondent should or
18 should not be excluded;
- 19 (b) Only impose a location restriction where there is a specific, demonstrable
20 danger to the petitioner or other person protected by the order;
- 21 (c) Specifically describe in the order the locations or areas prohibited to the
22 respondent; and
- 23 (d) Consider structuring a restriction so as to allow the respondent transit through
24 an area if the respondent does not interrupt his or her travel to harass, harm, or
25 attempt to harass or harm the petitioner.
- 26 (3) When temporary child support is granted under this section, the court shall enter an
27 order detailing how the child support is to be paid and collected. Child support

1 ordered under this section may be enforced utilizing the same procedures as any
2 other child support order.

3 (4) A domestic violence order shall be effective for a period of time fixed by the court,
4 not to exceed three (3) years, and may be reissued upon expiration for subsequent
5 periods of up to three (3) years each. The fact that an order has not been violated
6 since its issuance may be considered by a court in hearing a request for a reissuance
7 of the order.

8 **(5) (a) A court shall make a finding of at least one (1) of the following factors, by**
9 **clear and convincing evidence, in order to restrain the respondent from**
10 **possessing a firearm or other weapon:**

11 **1. The use or threatened use of a deadly weapon by the respondent or a**
12 **pattern of prior conduct involving the use or threatened use of**
13 **violence with a firearm against persons;**

14 **2. Threats to seriously injure or kill the petitioner made by the**
15 **respondent;**

16 **3. Threats to commit suicide made by the respondent; or**

17 **4. Serious injuries inflicted upon the petitioner by the respondent.**

18 **(b) In its discretion, a court may make these findings in the same hearing in**
19 **which the domestic violence order was issued, or in a separate hearing at a**
20 **later date if either party requests. If the court decides to hold a separate**
21 **hearing it shall be held within ten (10) days of the hearing in which the**
22 **domestic violence order was issued.**

23 **(6) If a court makes a finding of one (1) of the factors provided in subsection (5) of**
24 **this section, the court shall order the respondent to surrender any firearms or**
25 **other specified weapons in his or her possession within twenty-four (24) hours to**
26 **local law enforcement. Law enforcement shall keep custody of the firearms or**
27 **weapons for the duration of the order of protection or until the court that ordered**

1 *the surrender orders the release of the firearms.*

2 *(7) The provisions of subsection (5) and (6) of this section shall become effective*
 3 *immediately upon, and to the extent permitted by, the occurrence of any decision*
 4 *of the Sixth Circuit Court of Appeals which upholds, in whole or in part, United*
 5 *States v. Combs, Criminal Action 5: 22-136-DCR (E.D. Ky. Feb. 2, 2023).*

6 ➔Section 2. KRS 456.060 is amended to read as follows:

7 (1) Following a hearing ordered under KRS 456.040, if a court finds by a
 8 preponderance of the evidence that dating violence and abuse, sexual assault, or
 9 stalking has occurred and may again occur, the court may issue an interpersonal
 10 protective order:

11 (a) Restraining the adverse party from:

- 12 1. Committing further acts of dating violence and abuse, stalking, or sexual
 13 assault;
- 14 2. Any unauthorized contact or communication with the petitioner or other
 15 person specified by the court;
- 16 3. Approaching the petitioner or other person specified by the court within
 17 a distance specified in the order, not to exceed five hundred (500) feet;
- 18 4. Going to or within a specified distance of a specifically described
 19 residence, school, or place of employment or area where such a place is
 20 located;~~and~~
- 21 5. Disposing of or damaging any of the property of the parties; *and*
 22 *6. Using or possessing a firearm or other weapon specified by the court.*

23 *If a court restrains a person from possessing weapons, it shall make*
 24 *additional findings pursuant to subsection (4) of this section;*

25 (b) Authorizing, at the request of the petitioner:

- 26 1. Limited contact or communication between the parties that the court
 27 finds necessary; or

1 2. The parties to remain in a common area, which may necessitate them
2 being closer than five hundred (500) feet under limited circumstances
3 with specific parameters set forth by the court.

4 Nothing in this paragraph shall be interpreted to place any restriction or
5 restraint on the petitioner;

6 (c) Directing or prohibiting any other actions that the court believes will be of
7 assistance in eliminating future acts of dating violence and abuse, stalking, or
8 sexual assault, except that the court shall not order the petitioner to take any
9 affirmative action;

10 (d) Directing that either or both of the parties receive counseling services
11 available in the community in dating violence and abuse cases; and

12 (e) Awarding possession of any shared domestic animal to the petitioner.

13 (2) In imposing a location restriction described in subsection (1)(a)4. of this section, the
14 court shall:

15 (a) Afford the petitioner and respondent, if present, an opportunity to testify on
16 the issue of the locations and areas from which the respondent should or
17 should not be excluded;

18 (b) Only impose a location restriction where there is a specific, demonstrable
19 danger to the petitioner or other person protected by the order;

20 (c) Specifically describe in the order the locations or areas prohibited to the
21 respondent; and

22 (d) Consider structuring a restriction so as to allow the respondent transit through
23 an area if the respondent does not interrupt his or her travel to harass, harm, or
24 attempt to harass or harm the petitioner.

25 (3) An interpersonal protective order shall be effective for a period of time fixed by the
26 court, not to exceed three (3) years, and may be reissued upon expiration for
27 subsequent periods of up to three (3) years each. The fact that an order has not been

1 violated since its issuance may be considered by a court in hearing a request for a
2 reissuance of the order.

3 (4) (a) A court shall make a finding of at least one (1) of the following factors, by
4 clear and convincing evidence, in order to restrain the respondent from
5 possessing a firearm or other weapon:

6 1. The use or threatened use of a deadly weapon by the respondent or a
7 pattern of prior conduct involving the use or threatened use of
8 violence with a firearm against persons;

9 2. Threats to seriously injure or kill the petitioner made by the
10 respondent;

11 3. Threats to commit suicide made by the respondent; or

12 4. Serious injuries inflicted upon the petitioner by the respondent.

13 (b) In its discretion, a court may make these findings in the same hearing in
14 which the interpersonal protective order was issued, or in a separate
15 hearing at a later date if either party requests. If the court decides to hold a
16 separate hearing it shall be held within ten (10) days of the hearing in
17 which the domestic violence order was issued.

18 (5) If a court makes a finding of one of the factors provided in subsection (4) of this
19 section, the court shall order the respondent to surrender any firearms or other
20 specified weapons in his or her possession within twenty-four (24) hours to local
21 law enforcement. Law enforcement shall keep custody of the firearms or weapons
22 for the duration of the order of protection or until the court that ordered the
23 surrender orders the release of the firearms.

24 (6) The provisions of subsection (4) and (5) of this section shall become effective
25 immediately upon, and to the extent permitted by, the occurrence of any decision
26 of the Sixth Circuit Court of Appeals which upholds, in whole or in part, United
27 States v. Combs, Criminal Action 5: 22-136-DCR (E.D. Ky. Feb. 2, 2023).