

1 AN ACT relating to firearms possession by domestic abusers.

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

3 ➔Section 1. KRS 527.010 is amended to read as follows:

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

- 5 (1) "Booby trap device" ***has***~~[shall have]~~ the same meaning as ~~[set forth]~~in KRS  
6 237.030;~~[-]~~
- 7 (2) "Deface" means to remove, ***damage***~~[- deface]~~, cover, alter, or destroy the  
8 manufacturer's serial number or any other distinguishing number or identification  
9 mark;~~[-]~~
- 10 (3) "Destructive device" ***has***~~[shall have]~~ the same meaning as ~~[set forth]~~in KRS  
11 237.030;~~[-]~~
- 12 (4) ***"Domestic abuse offense" means a conviction under KRS 403.763, or 456.180 or***  
13 ***any crime that has as an element the use, attempted use, or threatened use of:***  
14 ***(a) Physical force;***  
15 ***(b) A deadly weapon; or***  
16 ***(c) A dangerous instrument;***  
17 ***if the relationship between the perpetrator and the victim is that of family***  
18 ***members, members of an unmarried couple as defined in KRS 403.720, or***  
19 ***members of a dating relationship as defined in KRS 456.010;***
- 20 (5) ***"Domestic violence protective order" means an order issued:***  
21 ***(a) After a hearing of which the subject of the order received actual notice and***  
22 ***had the opportunity to participate; and***  
23 ***(b) Under:***  
24 ***1. Section 4 of this Act, which that restrains the adverse party from***  
25 ***committing acts of domestic violence and abuse, including a foreign***  
26 ***protective order as defined in KRS 403.720, if the relationship between***  
27 ***the subject of the order and the protected individual is that of family***

1 members or members of an unmarried couple; or  
 2 2. Section 5 of this Act, which restrains the adverse party from  
 3 committing acts of dating violence and abuse, including a foreign  
 4 protective order as defined in KRS 456.010, if the relationship between  
 5 the subject of the order and the protected individual is that of members  
 6 of a dating relationship;

7 (6) "Firearm" means any weapon which will expel a projectile by the action of an  
 8 explosive;~~;~~

9 (7)~~(5)~~ "Handgun" means any pistol or revolver originally designed to be fired by the  
 10 use of a single hand, or any other firearm originally designed to be fired by the use  
 11 of a single hand; and

12 (8) "Physical force" means force used upon or directed toward the body of another  
 13 person.

14 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO  
 15 READ AS FOLLOWS:

16 (1) A person is guilty of possession of a firearm by a convicted domestic abuser when  
 17 the person:

18 (a) Wantonly possesses, purchases, manufactures, or transports a firearm; and

19 (b) Has been convicted of a domestic abuse offense in any state or federal  
 20 court.

21 (2) A person is guilty of possession of a firearm by the subject of a domestic violence  
 22 protective order when the person:

23 (a) Wantonly possesses, purchases, manufactures, or transports a firearm; and

24 (b) Is currently subject to a domestic violence protective order.

25 (3) Possession of a firearm by a convicted domestic abuser or the subject of a  
 26 domestic violence protective order is a Class C felony.

27 (4) Notwithstanding the exceptions contained in KRS 527.100, this section shall

1 apply to any youthful offender who is convicted of a domestic abuse offense.

2 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO  
3 READ AS FOLLOWS:

4 (1) Upon every conviction for a domestic abuse offense and upon the issuance of  
5 every domestic violence protective order, the trial court or issuing court, as  
6 applicable, shall inform the offender or adverse party of the firearm prohibition  
7 in Section 2 of this Act and of the transfer requirements in this section.

8 (2) Within twenty-four (24) hours after being informed of the firearm prohibition, a  
9 person convicted of a domestic abuse offense or restrained by a domestic violence  
10 protective order shall transfer all firearms he or she owns or possesses to:

11 (a) The chief law enforcement officer of the city, county, urban-county  
12 government, charter county government, consolidated local government, or  
13 unified local government in which the person resides; or

14 (b) The sheriff of the county in which the person resides.

15 (3) Any chief law enforcement officer or sheriff accepting the transfer of firearms  
16 under this section shall issue a proof of transfer to the transferring person. The  
17 Administrative Office of the Courts shall develop a proof of transfer form, which  
18 shall include, at a minimum:

19 (a) The name of the person transferring the firearm or firearms;

20 (b) The name of the owner of each firearm;

21 (c) The date of transfer; and

22 (d) The serial number, make, and model of each transferred firearm.

23 (4) (a) Within three (3) business days after being informed of the firearm  
24 prohibition, a person convicted of a domestic abuse offense or restrained by  
25 a domestic violence protective order shall either:

26 1. File a copy of the proof of transfer with the court that entered the  
27 conviction or entered the order, as applicable, and attest that all

1 firearms owned or possessed by the person have been transferred in  
2 accordance with this section and that the person does not own or  
3 possess any other firearms; or

4 2. Attest to the court that entered the conviction or entered the order, as  
5 applicable, that the person does not currently own or possess any  
6 firearms and did not own or possess any firearms at the time of the  
7 prohibiting conviction or order.

8 (b) The court that entered the conviction or issued the order, as applicable,  
9 shall confirm whether the prohibited person timely complied with the terms  
10 of this subsection. Failure to comply shall constitute contempt of court in  
11 addition to any penalties under subsection (8) of this section.

12 (5) If, upon motion of the prosecutor or a law enforcement officer, the court that  
13 entered the conviction or issued the order, as applicable, finds probable cause to  
14 believe that a person convicted of a domestic abuse offense or restrained by a  
15 domestic violence protective order has failed to transfer any firearms in  
16 accordance with this section, the court may order a search for and the removal of  
17 all firearms at any location where the judge has probable cause to believe these  
18 firearms are located. The judge shall state with specificity the reasons for and the  
19 scope of the search and seizure authorized by the order. Proof of transfer as  
20 required under subsection (3) of this section shall be issued for any firearms  
21 seized under this subsection.

22 (6) A person convicted of a domestic abuse offense who transfers a firearm to a chief  
23 law enforcement officer or sheriff under this section may, within thirty (30) days  
24 after transferring the firearm, request to make a one (1) time transfer to a  
25 licensed dealer. After the thirty (30) day period, if a person convicted of a  
26 domestic abuse offense has not made such a request, a chief law enforcement  
27 officer or sheriff may dispose of any firearm transferred by the person in

1 accordance with KRS 500.090.

2 (7) At the expiration of a domestic violence protective order, a chief law enforcement  
 3 officer or sheriff shall, at the convicted or restrained person's request, return any  
 4 firearms transferred pursuant to subsection (2) of this section. Prior to returning  
 5 any firearms, the chief law enforcement officer or sheriff shall determine whether  
 6 or not the person is eligible to possess a firearm under state and federal law. If  
 7 the person is ineligible to possess a firearm under state or federal law, the law  
 8 enforcement agency shall:

9 (a) Inform the person that a thirty (30) day window for transferring the firearm  
 10 is available as provided in subsection (6) of this section; and

11 (b) After thirty (30) days have passed, dispose of the firearm in accordance with  
 12 KRS 500.090.

13 (8) A person convicted of a domestic abuse offense or restrained by a domestic  
 14 violence protective order who does not comply with the terms of this section is  
 15 guilty of a Class A misdemeanor.

16 ➔Section 4. KRS 403.740 is amended to read as follows:

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

20 (a) Restraining the adverse party from:

- 21 1. Committing further acts of domestic violence and abuse;
- 22 2. Any unauthorized contact or communication with the petitioner or other  
 23 person specified by the court;
- 24 3. Approaching the petitioner or other person specified by the court within  
 25 a distance specified in the order, not to exceed five hundred (500) feet;
- 26 4. Going to or within a specified distance of a specifically described  
 27 residence, school, or place of employment or area where such a place is

1 located; and

2 5. Disposing of or damaging any of the property of the parties;

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

4 1. Limited contact or communication between the parties that the court  
5 finds necessary; or

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

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

11 (c) Directing or prohibiting any other actions that the court believes will be of  
12 assistance in eliminating future acts of domestic violence and abuse, except  
13 that the court shall not order the petitioner to take any affirmative action;

14 (d) Directing that either or both of the parties receive counseling services  
15 available in the community in domestic violence and abuse cases; and

16 (e) Additionally, if applicable:

17 1. Directing the adverse party to vacate a residence shared by the parties to  
18 the action;

19 2. Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.822,  
20 grant temporary custody, subject to KRS 403.315;

21 3. Utilizing the criteria set forth in KRS 403.211, 403.212, 403.2122, and  
22 403.213, award temporary child support; and

23 4. Awarding possession of any shared domestic animal to the petitioner.

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

26 (a) Afford the petitioner and respondent, if present, an opportunity to testify on  
27 the issue of the locations and areas from which the respondent should or

1 should not be excluded;

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

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

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

9 (3) When temporary child support is granted under this section, the court shall enter an  
10 order detailing how the child support is to be paid and collected. Child support  
11 ordered under this section may be enforced utilizing the same procedures as any  
12 other child support order.

13 (4) *When a domestic violence order serves to prohibit the adverse party from*  
14 *possessing a firearm under Section 2 of this Act, the court shall inform the*  
15 *adverse party of the firearm possession prohibition and the firearm transfer*  
16 *requirements under Section 3 of this Act.*

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

22 ➔Section 5. KRS 456.060 is amended to read as follows:

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

27 (a) Restraining the adverse party from:

- 1           1.    Committing further acts of dating violence and abuse, stalking, or sexual
- 2                    assault;
- 3           2.    Any unauthorized contact or communication with the petitioner or other
- 4                    person specified by the court;
- 5           3.    Approaching the petitioner or other person specified by the court within
- 6                    a distance specified in the order, not to exceed five hundred (500) feet;
- 7           4.    Going to or within a specified distance of a specifically described
- 8                    residence, school, or place of employment or area where such a place is
- 9                    located; and
- 10          5.    Disposing of or damaging any of the property of the parties;

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

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

17           Nothing in this paragraph shall be interpreted to place any restriction or

18           restraint on the petitioner;

19          (c)  Directing or prohibiting any other actions that the court believes will be of

20           assistance in eliminating future acts of dating violence and abuse, stalking, or

21           sexual assault, except that the court shall not order the petitioner to take any

22           affirmative action;

23          (d)  Directing that either or both of the parties receive counseling services

24           available in the community in dating violence and abuse cases; and

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

26          (2)  In imposing a location restriction described in subsection (1)(a)4. of this section, the

27          court shall:



- 1 (a) Afford the petitioner and respondent, if present, an opportunity to testify on  
2 the issue of the locations and areas from which the respondent should or  
3 should not be excluded;
- 4 (b) Only impose a location restriction where there is a specific, demonstrable  
5 danger to the petitioner or other person protected by the order;
- 6 (c) Specifically describe in the order the locations or areas prohibited to the  
7 respondent; and
- 8 (d) Consider structuring a restriction so as to allow the respondent transit through  
9 an area if the respondent does not interrupt his or her travel to harass, harm, or  
10 attempt to harass or harm the petitioner.
- 11 (3) *When an interpersonal protection order serves to prohibit the adverse party from*  
12 *possessing a firearm under Section 2 of this Act, the court shall inform the*  
13 *adverse party of the firearm possession prohibition and the firearm transfer*  
14 *requirements under Section 3 of this Act.*
- 15 (4) An interpersonal protective order shall be effective for a period of time fixed by the  
16 court, not to exceed three (3) years, and may be reissued upon expiration for  
17 subsequent periods of up to three (3) years each. The fact that an order has not been  
18 violated since its issuance may be considered by a court in hearing a request for a  
19 reissuance of the order.