

1 AN ACT relating to crimes and punishments.

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

3 ➔Section 1. KRS 17.500 is amended to read as follows:

4 As used in KRS 17.500 to 17.580:

5 (1) "Approved provider" means a mental health professional licensed or certified in
6 Kentucky whose scope of practice includes providing mental health treatment
7 services and who is approved by the Sex Offender Risk Assessment Advisory
8 Board, under administrative regulations promulgated by the board, to provide
9 comprehensive sex offender presentence evaluations or treatment to adults and
10 youthful offenders, as defined in KRS 600.020;

11 (2) "Cabinet" means the Justice and Public Safety Cabinet;

12 (3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense
13 against a victim who is a minor" means any of the following offenses if the
14 victim is under the age of eighteen (18) at the time of the commission of the
15 offense:

- 16 1. Kidnapping, as set forth in KRS 509.040, except by a parent;
- 17 2. Unlawful imprisonment, as set forth in KRS 509.020, except by a
18 parent;
- 19 3. Sex crime;
- 20 4. Promoting a sexual performance of a minor, as set forth in KRS
21 531.320;
- 22 5. Human trafficking involving commercial sexual activity, as set forth in
23 KRS 529.100;
- 24 6. Promoting prostitution, as set forth in KRS 529.040, when the defendant
25 advances or profits from the prostitution of a person under the age of
26 eighteen (18);
- 27 7. Use of a minor in a sexual performance, as set forth in KRS 531.310;

- 1 8. Sexual abuse, as set forth in KRS 510.120 and 510.130;
- 2 9. Unlawful transaction with a minor in the first degree, as set forth in KRS
- 3 530.064(1)(a);
- 4 10. Any offense involving a minor or depictions of a minor, as set forth in
- 5 KRS Chapter 531;
- 6 11. Any attempt to commit any of the offenses described in subparagraphs 1.
- 7 to 10. of this paragraph; ~~and~~
- 8 12. Solicitation to commit any of the offenses described in subparagraphs 1.
- 9 to 10. of this paragraph; or
- 10 **13. Any offense from another state or territory, any federal offense, or any**
- 11 **offense subject to a court martial of the United States Armed Forces,**
- 12 **which is similar to any of the offenses described in subparagraphs 1.**
- 13 **to 12. of this paragraph.**
- 14 (b) Conduct which is criminal only because of the age of the victim shall not be
- 15 considered a criminal offense against a victim who is a minor if the
- 16 perpetrator was under the age of eighteen (18) at the time of the commission
- 17 of the offense;
- 18 (4) "Law enforcement agency" means any lawfully organized investigative agency,
- 19 sheriff's office, police unit, or police force of federal, state, county, urban-county
- 20 government, charter county, city, consolidated local government, or a combination
- 21 of these, responsible for the detection of crime and the enforcement of the general
- 22 criminal federal or state laws;
- 23 (5) "Registrant" means:
- 24 (a) Any person eighteen (18) years of age or older at the time of the offense or
- 25 any youthful offender, as defined in KRS 600.020, who has committed:
- 26 1. A sex crime; or
- 27 2. A criminal offense against a victim who is a minor; or

- 1 (b) Any person required to register under KRS 17.510; or
- 2 (c) Any sexually violent predator; or
- 3 (d) Any person whose sexual offense has been diverted pursuant to KRS 533.250,
- 4 until the diversionary period is successfully completed;
- 5 (6) "Registrant information" means the name, including any lawful name change
- 6 together with the previous name, Social Security number, age, race, sex, date of
- 7 birth, height, weight, hair and eye color, fingerprints, *palm prints*, DNA sample, a
- 8 photograph, aliases used, residence, electronic mail address and any instant
- 9 messaging, chat, or other Internet communication name identities, a brief
- 10 description of the crime or crimes committed, and other information the cabinet
- 11 determines, by administrative regulation, may be useful in the identification of
- 12 registrants;
- 13 (7) "Residence" means any place where a person sleeps. For the purposes of this statute,
- 14 a registrant may have more than one (1) residence. A registrant is required to
- 15 register each residence address;
- 16 (8) "Sex crime" means:
- 17 (a) A felony offense defined in KRS Chapter 510, or KRS 530.020,
- 18 530.064(1)(a), 531.310, 531.320, or 531.335;
- 19 (b) A felony attempt to commit a felony offense specified in paragraph (a) of this
- 20 subsection; or
- 21 (c) A federal felony offense, a felony offense subject to a court-martial of the
- 22 United States Armed Forces, or a felony offense from another state or a
- 23 territory where the felony offense is similar to a felony offense specified in
- 24 paragraph (a) of this subsection;
- 25 (9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an
- 26 Alford plea to a sex crime as defined in this section, as of the date the verdict is
- 27 entered by the court;

- 1 (10) "Sexually violent predator" means any person who has been subjected to
2 involuntary civil commitment as a sexually violent predator, or a similar
3 designation, under a state, territory, or federal statutory scheme;
- 4 (11) "The board" means the Sex Offender Risk Assessment Advisory Board created
5 under KRS 17.554;
- 6 (12) "Victim" has the same meaning as in KRS 421.500;
- 7 (13) "DNA sample" or "deoxyribonucleic acid sample" means a blood or swab specimen
8 from a person, as prescribed by administrative regulation, that is required to provide
9 a DNA sample pursuant to KRS 17.170 or 17.510, that shall be submitted to the
10 Department of Kentucky State Police forensic laboratory for law enforcement
11 identification purposes and inclusion in law enforcement identification databases;
12 and
- 13 (14) "Authorized personnel" means an agent of state government who is properly trained
14 in DNA sample collection pursuant to administrative regulation.
- 15 ➔Section 2. KRS 17.510 is amended to read as follows:
- 16 (1) The cabinet shall develop and implement a registration system for registrants which
17 includes creating a new computerized information file to be accessed through the
18 Law Information Network of Kentucky.
- 19 (2) A registrant shall, on or before the date of his or her release by the court, the parole
20 board, the cabinet, or any detention facility, register with the appropriate local
21 probation and parole office in the county in which he or she intends to reside. The
22 person in charge of the release shall facilitate the registration process.
- 23 (3) Any person required to register pursuant to subsection (2) of this section shall be
24 informed of the duty to register by the court at the time of sentencing if the court
25 grants probation or conditional discharge or does not impose a penalty of
26 incarceration, or if incarcerated, by the official in charge of the place of confinement
27 upon release. The court and the official shall require the person to read and sign any

1 form that may be required by the cabinet, stating that the duty of the person to
2 register has been explained to the person. The court and the official in charge of the
3 place of confinement shall require the releasee to complete the acknowledgment
4 form and the court or the official shall retain the original completed form. The
5 official shall then send the form to the Information Services Center, Department of
6 Kentucky State Police, Frankfort, Kentucky 40601.

7 (4) The court or the official shall order the person to register with the appropriate local
8 probation and parole office which shall obtain the person's fingerprints, *palm prints*,
9 DNA sample, and photograph. Thereafter, the registrant shall return to the
10 appropriate local probation and parole office not less than one (1) time every two
11 (2) years in order for a new photograph to be obtained, and the registrant shall pay
12 the cost of updating the photo for registration purposes. Any registrant who has not
13 provided *fingerprints or palm prints as of the effective date of this Act or* a DNA
14 sample as of July 1, 2009, shall provide *fingerprints, palm prints, and* a DNA
15 sample to the appropriate local probation and parole office when the registrant
16 appears for a new photograph to be obtained. Failure to comply with this
17 requirement shall be punished as set forth in subsection (11) of this section.

18 (5) (a) The appropriate probation and parole office shall send the registration form
19 containing the registrant information, fingerprint card, *palm print card*, and
20 photograph, and any special conditions imposed by the court or the Parole
21 Board, to the Information Services Center, Department of Kentucky State
22 Police, Frankfort, Kentucky 40601. The appropriate probation and parole
23 office shall send the DNA sample to the Department of Kentucky State Police
24 forensic laboratory in accordance with administrative regulations promulgated
25 by the cabinet.

26 (b) The Information Services Center, upon request by a state or local law
27 enforcement agency, shall make available to that agency registrant

1 information, including a person's fingerprints and photograph, where
2 available, as well as any special conditions imposed by the court or the Parole
3 Board.

4 (c) Any employee of the Justice and Public Safety Cabinet who disseminates, or
5 does not disseminate, registrant information in good faith compliance with the
6 requirements of this subsection shall be immune from criminal and civil
7 liability for the dissemination or lack thereof.

8 (6) Any person who has been convicted in a court of any state or territory, a court of the
9 United States, or a similar conviction from a court of competent jurisdiction in any
10 other country, or a court martial of the United States Armed Forces of a sex crime
11 or criminal offense against a victim who is a minor and who has been notified of the
12 duty to register by that state, territory, or court, or who has been committed as a
13 sexually violent predator under the laws of another state, laws of a territory, or
14 federal laws, or has a similar conviction from a court of competent jurisdiction in
15 any other country, shall comply with the registration requirement of this section,
16 including the requirements of subsection (4) of this section, and shall register with
17 the appropriate local probation and parole office in the county of residence within
18 three (3)~~five (5)~~ working days of relocation. No additional notice of the duty to
19 register shall be required of any official charged with a duty of enforcing the laws of
20 this Commonwealth.

21 (7) If a person is required to register under federal law or the laws of another state or
22 territory, or if the person has been convicted of an offense *in a court of the United*
23 *States, in a court martial of the United States Armed Forces, or* under the laws of
24 another state or territory that would require registration if committed in this
25 Commonwealth, that person upon changing residence from the other state or
26 territory of the United States to the Commonwealth or upon entering the
27 Commonwealth for employment, to carry on a vocation, or as a student shall

1 comply with the registration requirement of this section, including the requirements
2 of subsection (4) of this section, and shall register within three (3)~~five (5)~~ working
3 days with the appropriate local probation and parole office in the county of
4 residence, employment, vocation, or schooling. A person required to register under
5 federal law or the laws of another state or territory shall be presumed to know of the
6 duty to register in the Commonwealth. As used in this subsection, "employment" or
7 "carry on a vocation" includes employment that is full-time or part-time for a period
8 exceeding fourteen (14) days or for an aggregate period of time exceeding thirty
9 (30) days during any calendar year, whether financially compensated, volunteered,
10 or for the purpose of government or educational benefit. As used in this subsection,
11 "student" means a person who is enrolled on a full-time or part-time basis, in any
12 public or private educational institution, including any secondary school, trade or
13 professional institution, or institution of higher education.

14 (8) The registration form shall be a written statement signed by the person which shall
15 include registrant information, including an up-to-date photograph of the registrant
16 for public dissemination.

17 (9) For purposes of KRS 17.500 to 17.580 and 17.991, a post office box number shall
18 not be considered an address.

19 (10) (a) If the residence address of any registrant changes, but the registrant remains in
20 the same county, the person shall register, on or before the date of the change
21 of address, with the appropriate local probation and parole office in the county
22 in which he or she resides.

23 (b) 1. If the registrant changes his or her residence to a new county, the person
24 shall notify his or her current local probation and parole office of the
25 new residence address on or before the date of the change of address.

26 2. The registrant shall also register with the appropriate local probation and
27 parole office in the county of his or her new residence no later than three

1 ~~(3)[five (5)]~~ working days after the date of the change of address.

2 (c) If the electronic mail address or any instant messaging, chat, or other Internet
3 communication name identities of any registrant changes, or if the registrant
4 creates or uses any new Internet communication name identities, the registrant
5 shall register the change or new identity, **no later than three (3) working days**
6 **after**~~[on or before]~~ the date of the change or use or creation of the new
7 identity, with the appropriate local probation and parole office in the county in
8 which he or she resides.

9 (d) 1. As soon as a probation and parole office learns of the person's new
10 address under paragraph (b)1. of this subsection, that probation and
11 parole office shall notify the appropriate local probation and parole
12 office in the county of the new address of the effective date of the new
13 address.

14 2. As soon as a probation and parole office learns of the person's new
15 address under paragraph (b)2. of this subsection or learns of the
16 registrant's new or changed electronic mail address or instant messaging,
17 chat, or other Internet communication name identities under paragraph
18 (c) of this subsection, that office shall forward this information as set
19 forth under subsection (5) of this section.

20 **(e) 1. A registrant shall register the following information with the**
21 **appropriate local probation and parole office no less than twenty-one**
22 **(21) days before traveling outside of the United States:**

23 **a. His or her passport number and country of issue;**

24 **b. The dates of departure, travel, and return; and**

25 **c. The foreign countries, colonies, territories, or possessions that**
26 **the registrant will visit.**

27 **2. The registrant shall also register with the appropriate local probation**

1 *and parole office no later than three (3) working days after the date of*
2 *his or her return from traveling outside of the United States.*

3 (11) Any person required to register under this section who knowingly violates any of
4 the provisions of this section or prior law is guilty of a Class D felony for the first
5 offense and a Class C felony for each subsequent offense.

6 (12) Any person required to register under this section or prior law who knowingly
7 provides false, misleading, or incomplete information is guilty of a Class D felony
8 for the first offense and a Class C felony for each subsequent offense.

9 (13) (a) The cabinet shall verify the addresses and the electronic mail address and any
10 instant messaging, chat, or other Internet communication name identities of
11 individuals required to register under this section. Verification shall occur at
12 least once every ninety (90) days for a person required to register under KRS
13 17.520(2) and at least once every calendar year for a person required to
14 register under KRS 17.520(3). If the cabinet determines that a person has
15 moved or has created or changed any electronic mail address or any instant
16 messaging, chat, or other Internet communication name identities used by the
17 person without providing his or her new address, electronic mail address, or
18 instant messaging, chat, or other Internet communication name identity to the
19 appropriate local probation and parole office or offices as required under
20 subsection (10)(a), (b), and (c) of this section, the cabinet shall notify the
21 appropriate local probation and parole office of the new address or electronic
22 mail address or any instant messaging, chat, or other Internet communication
23 name identities used by the person. The office shall then forward this
24 information as set forth under subsection (5) of this section. The cabinet shall
25 also notify the appropriate court, Parole Board, and appropriate
26 Commonwealth's attorney, sheriff's office, probation and parole office,
27 corrections agency, and law enforcement agency responsible for the

1 investigation of the report of noncompliance.

2 (b) An agency that receives notice of the noncompliance from the cabinet under
3 paragraph (a) of this subsection:

4 1. Shall consider revocation of the parole, probation, postincarceration
5 supervision, or conditional discharge of any person released under its
6 authority; and

7 2. Shall notify the appropriate county or Commonwealth's Attorney for
8 prosecution.

9 ➔Section 3. KRS 17.520 is amended to read as follows:

10 (1) A registrant, upon his or her release by the court, the Parole Board, the cabinet, or
11 any detention facility, shall be required to register for a period of time required
12 under this section.

13 (2) (a) Lifetime registration is required for:

14 1. Any person who has been convicted of kidnapping, as set forth in KRS
15 509.040, when the victim is under the age of eighteen (18) at the time of
16 the commission of the offense, except when the offense is committed by
17 a parent;

18 2. Any person who has been convicted of unlawful
19 imprisonment~~[confinement]~~, as set forth in KRS 509.020, when the
20 victim is under the age of eighteen (18) at the time of the commission of
21 the offense, except when the offense is committed by a parent;

22 3. Any person convicted of a sex crime:
23 a. Who has one (1) or more prior convictions of a felony criminal
24 offense against a victim who is a minor; or

25 b. Who has one (1) or more prior sex crime convictions;

26 4. Any person who has been convicted of two (2) or more felony criminal
27 offenses against a victim who is a minor;

- 1 5. Any person who has been convicted of:
- 2 a. Rape in the first degree under KRS 510.040; or
- 3 b. Sodomy in the first degree under KRS 510.070; and
- 4 6. Any sexually violent predator.
- 5 (3) All other registrants are required to register for twenty (20) years following
- 6 discharge from confinement or twenty (20) years following the maximum discharge
- 7 date on probation, shock probation, conditional discharge, parole, or other form of
- 8 early release, whichever period is greater.
- 9 (4) If a person required to register under this section is reincarcerated for another
- 10 offense or as the result of having violated the terms of probation, parole,
- 11 postincarceration supervision, or conditional discharge, the registration
- 12 requirements and the remaining period of time for which the registrant shall register
- 13 are tolled during the reincarceration.
- 14 (5) A person who has pled guilty, entered an Alford plea, or been convicted in a court
- 15 of another state or territory, in a court of the United States, or in a court-martial of
- 16 the United States Armed Forces who is required to register in Kentucky shall be
- 17 subject to registration in Kentucky based on the conviction in the foreign
- 18 jurisdiction. The Justice and Public Safety Cabinet shall promulgate administrative
- 19 regulations to carry out the provisions of this subsection.
- 20 (6) The court shall designate the registration period as mandated by this section in its
- 21 judgment and shall cause a copy of its judgment to be mailed to the Information
- 22 Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601.
- 23 ➔Section 4. KRS 17.545 is amended to read as follows:
- 24 (1) No registrant, as defined in KRS 17.500, shall reside within one thousand (1,000)
- 25 feet of a high school, middle school, elementary school, preschool, publicly owned
- 26 playground, or licensed day care facility. The measurement shall be taken in a
- 27 straight line from the nearest property line of the school, publicly owned

1 playground, or licensed day care facility to the nearest property line of the
2 registrant's place of residence.

3 (2) No registrant, as defined in KRS 17.500, nor any person residing outside of
4 Kentucky who would be required to register under KRS 17.510 if the person resided
5 in Kentucky, shall be on the clearly defined grounds of a high school, middle
6 school, elementary school, preschool, or licensed day care facility, except with the
7 advance written permission of the school principal, the school board, or the day care
8 director that has been given after full disclosure of the person's status as a registrant
9 or sex offender from another state and all registrant information as required in KRS
10 17.500.

11 (3) For purposes of this section:

12 (a) The registrant shall have the duty to ascertain whether any property listed in
13 subsection (1) of this section is within one thousand (1,000) feet of the
14 registrant's residence; and

15 (b) If a new facility opens, the registrant shall be presumed to know and, within
16 ninety (90) days, shall comply with this section.

17 (4) (a) No registrant, as defined in Section 1 of this Act, who is eighteen (18) years
18 of age or older shall have the same residence as a minor.

19 (b) Notwithstanding paragraph (a) of this subsection, a registrant that is
20 eighteen (18) years of age or older may have the same residence as a minor
21 if the registrant is the spouse, parent, grandparent, stepparent, sibling,
22 stepsibling, or court-appointed guardian of the minor, unless the child,
23 grandchild, stepchild, sibling, stepsibling, or ward was a victim of the
24 registrant.

25 (c) This subsection shall not operate retroactively, and shall apply only to a
26 registrant that committed a sex crime, a criminal offense against a victim
27 who is a minor, or an offense requiring registration under subsection (6) or

1 (7) of Section 2 of this Act, on or after the effective date of this Act.

2 (5) Any person who violates subsection (1) or (4) of this section shall be guilty of:

3 (a) A Class A misdemeanor for a first offense; and

4 (b) A Class D felony for the second and each subsequent offense.

5 ~~(6)~~~~(5)~~ Any registrant residing within one thousand (1,000) feet of a high school,
6 middle school, elementary school, preschool, publicly owned playground, or
7 licensed day care facility on July 12, 2006, shall move and comply with this section
8 within ninety (90) days of July 12, 2006, and thereafter, shall be subject to the
9 penalties set forth under subsection ~~(5)~~~~(4)~~ of this section.

10 ~~(7)~~~~(6)~~ This section shall not apply to a youthful offender probated or paroled during
11 his or her minority or while enrolled in an elementary or secondary education
12 program.

13 ➔Section 5. KRS 17.546 is amended to read as follows:

14 (1) As used in this section:

15 (a) "Instant messaging or chat room program" means a software program that
16 allows two (2) or more persons to communicate over the Internet in real time
17 using typed text; and

18 (b) "Social networking Web site":

19 1. Means an Internet Web site that:

20 a.~~[1.]~~Facilitates the social introduction between two (2) or more
21 persons;

22 b.~~[2.]~~Allows a person to create a Web page or a personal profile; and

23 c.~~[3.]~~Provides a person who visits the Web site the opportunity to
24 communicate with another person; and

25 2. Does not mean an Internet Web site:

26 a. *The primary purpose of which is the facilitation of commercial*
27 *transactions involving goods or services between its members or*

1 visitors;

2 b. The primary purpose of which is the dissemination of news; and

3 c. Of a governmental entity.

4 (2) No registrant shall knowingly or intentionally use a social networking Web site or
5 an instant messaging or chat room program if that Web site or program allows a
6 person who is less than eighteen (18) years of age to access or use the Web site or
7 program.

8 (3) No registrant shall intentionally photograph, film, or video a minor through
9 traditional or electronic means without the written consent of the minor's parent,
10 legal custodian, or guardian unless the registrant is the minor's parent, legal
11 custodian, or guardian. The written consent required under this subsection shall
12 state that the person seeking the consent is required to register as a sex offender
13 under Kentucky law.

14 (4) Any person who violates subsection (2) or (3) of this section shall be guilty of a
15 Class A misdemeanor.

16 ➔Section 6. KRS 17.580 is amended to read as follows:

17 (1) The Department of Kentucky State Police shall establish a Web site available to the
18 public. The Web site shall display:

19 (a) The registrant information, except for electronic mail address or any instant
20 messaging, chat, or other Internet communication name identities included in
21 a registrant's registration data, as well as information that identifies a victim,
22 DNA samples, fingerprints, palm prints, and Social Security numbers,
23 obtained by the Information Services Center, Department of Kentucky State
24 Police, under KRS 17.510;

25 (b) The sex offender information, except for information that identifies a victim,
26 DNA samples, Social Security numbers, and vehicle registration data,
27 obtained by the Information Services Center, Department of Kentucky State

1 Police, under KRS 17.510 prior to April 11, 2000; and

2 (c) The registrant's conviction, the elements of the offense for which the registrant
3 was convicted, whether the registrant is currently on probation or parole, and
4 whether the registrant is compliant or noncompliant.

5 The Web site shall be updated every day except for Saturdays, Sundays, and state
6 holidays.

7 (2) The information pertaining to an individual shall be maintained on the Web site so
8 long as that individual is registered in accordance with KRS 17.500 to 17.580.

9 (3) The Web site shall provide public access to electronic mail addresses and any
10 instant messaging, chat, or other Internet communication name identities used by
11 registrants solely by use of a search function on the Web site through which
12 members of the public may enter an electronic mail address or any instant
13 messaging, chat, or other Internet communication name identity and receive an
14 answer as to whether the entered identifier is included in the registrant information
15 for any registrant.

16 (4) The following language shall be prominently displayed on the Web site: "UNDER
17 KRS 525.070 AND 525.080, USE OF INFORMATION OBTAINED FROM THIS
18 WEB SITE TO HARASS A PERSON IDENTIFIED ON THIS WEB SITE IS A
19 CRIMINAL OFFENSE PUNISHABLE BY UP TO NINETY (90) DAYS IN THE
20 COUNTY JAIL. MORE SEVERE CRIMINAL PENALTIES APPLY FOR MORE
21 SEVERE CRIMES COMMITTED AGAINST A PERSON IDENTIFIED ON THIS
22 WEB SITE."

23 (5) (a) Any Department of Kentucky State Police employee who disseminates, or
24 does not disseminate, registrant information or sex offender information in
25 good faith compliance with the requirements of this section shall be immune
26 from criminal and civil liability for the dissemination or lack thereof.

27 (b) Any person, including an employee of a sheriff's office, acting in good faith in

1 disseminating, or not disseminating, information previously disseminated by
2 the Department of Kentucky State Police shall be immune from criminal and
3 civil liability for the dissemination or lack thereof.

4 (6) The cabinet shall establish a toll-free telephone number for a person to call to learn
5 the identity of the Web site created in this section and the location of public access
6 to the Web site in the county where the person resides.

7 (7) In addition to the Web site, a local law enforcement agency may provide personal
8 notification regarding the registrants located in its jurisdiction. Any notification
9 shall contain the warning specified in subsection (4) of this section.