GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2012 REGULAR SESSION

SENATE BILL NO. 58

TUESDAY, MARCH 6, 2012

The following bill was reported to the House from the Senate and ordered to be printed.

RECEIVED AND FILED
DATE April 11, 2012
5:47pm

ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY

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 431.005 is amended to read as follows:

4 (1) A peace officer may make an arrest:

5 (a) In obedience to a warrant; or

6 (b) Without a warrant when a felony is committed in his ***or her*** presence; or

7 (c) Without a warrant when he ***or she*** has probable cause to believe that the

8 person being arrested has committed a felony; or

9 (d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been

10 committed in his ***or her*** presence; or

11 (e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520,

12 189.580, 511.080, or 525.070 has been committed in his ***or her*** presence,

13 except that a violation of KRS 189A.010 or KRS 281A.210 need not be

14 committed in his ***or her*** presence in order to make an arrest without a warrant

15 if the officer has probable cause to believe that the person ***being arrested*** has

16 violated KRS 189A.010 or KRS 281A.210***; or***

17 ***(f) Without a warrant when a violation of KRS 508.030 has occurred in the***

18 ***emergency room of a hospital without the officer's presence if the officer***

19 ***has probable cause to believe that the person being arrested has violated***

20 ***KRS 508.030. For the purposes of this paragraph, "emergency room"***

21 ***means that portion of a licensed hospital which has the primary purpose of***

22 ***providing emergency medical care, twenty-four (24) hours per day, seven (7)***

23 ***days per week, and three hundred sixty-five (365) days per year***.

24 (2) (a) Any peace officer may arrest a person without warrant when the peace officer

25 has probable cause to believe that the person has intentionally or wantonly

26 caused physical injury to a family member or member of an unmarried couple.

27 (b) For the purposes of this subsection, the term "family member" has the same

1 meaning as set out in KRS 403.720.
2 (c) For the purpose of this subsection, the term "member of an unmarried couple"
3 has the same meaning as set out in KRS 403.720.
4 (3) A peace officer may arrest a person without a warrant when the peace officer has
5 probable cause to believe that the person is a sexual offender who has failed to
6 comply with the Kentucky Sex Offender Registry requirements based upon
7 information received from the Law Information Network of Kentucky.
8 (4) For purposes of subsections (2) and (3) of this section, a "peace officer" is an officer
9 certified pursuant to KRS 15.380.
10 (5) If a law enforcement officer has probable cause to believe that a person has violated
11 a condition of release imposed in accordance with KRS 431.064 and verifies that
12 the alleged violator has notice of the conditions, the officer shall, without a warrant,
13 arrest the alleged violator whether the violation was committed in or outside the
14 presence of the officer.
15 (6) A private person may make an arrest when a felony has been committed in fact and
16 he ***or she*** has probable cause to believe that the person being arrested has
17 committed it.
18 (7) If a law enforcement officer has probable cause to believe that a person has violated
19 a restraining order issued under KRS 508.155, then the officer shall, without a
20 warrant, arrest the alleged violator whether the violation was committed in or
21 outside the presence of the officer.
22 ➔Section 2. KRS 431.015 is amended to read as follows:
23 (1) (a) KRS 431.005 to the contrary notwithstanding, and except as provided in
24 paragraphs (b), ~~[and]~~ (c), ***and (d)*** of this subsection, a peace officer shall issue
25 a citation instead of making an arrest for a misdemeanor committed in his or
26 her presence, if there are reasonable grounds to believe that the person being
27 cited will appear to answer the charge. The citation shall provide that the

1 defendant shall appear within a designated time.
2 (b) A peace officer may make an arrest instead of issuing a citation for a
3 misdemeanor committed in his or her presence if the misdemeanor is:
4 1. A violation of KRS Chapter 508, 510, or 527, or KRS 189A.010;
5 2. An offense in which the defendant poses a risk of danger to himself,
6 herself, or another person; or
7 3. An offense in which the defendant refuses to follow the peace officer's
8 reasonable instructions.
9 (c) A peace officer shall make an arrest for violations of protective orders issued
10 pursuant to KRS 403.715 to 403.785.
11 ***(d) A peace officer may make an arrest or may issue a citation for a violation of***
12 ***KRS 508.030 which occurs in the emergency room of a hospital pursuant to***
13 ***Section 1(1)(f) of this Act.***
14 (2) A peace officer may issue a citation instead of making an arrest for a violation
15 committed in his ***or her*** presence but may not make a physical arrest unless there
16 are reasonable grounds to believe that the defendant, if a citation is issued, will not
17 appear at the designated time or unless the offense charged is a violation of KRS
18 189.223, 189.290, 189.393, 189.520, 189.580, 235.240, 281.600, 511.080, or
19 525.070 committed in his ***or her*** presence or a violation of KRS 189A.010, not
20 committed in his ***or her*** presence, for which an arrest without a warrant is permitted
21 under KRS 431.005(1)(e).
22 (3) If the defendant fails to appear in response to the citation, or if there are reasonable
23 grounds to believe that he ***or she*** will not appear, a complaint may be made before a
24 judge and a warrant shall issue.
25 (4) When a physical arrest is made and a citation is issued in relation to the same
26 offense the officer shall mark on the citation, in the place specified for court
27 appearance date, the word "ARRESTED" in lieu of the date of court appearance.

President of Senate

Speaker-House of Representatives

Attest: Chief Clerk of Senate

Approved Governor

Date 4-11-12