GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

SENATE BILL NO. 63

WEDNESDAY, MARCH 16, 2016

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

RECEIVED AND FILED
DATE April 8, 2016
2:33pm
ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

1 AN ACT relating to evidence and declaring an emergency.

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

3 ➔Section 1. All sexual assault examination kits collected pursuant to KRS
4 216B.400 prior to the effective date of this Act which have not been subjected to
5 serological or deoxyribonucleic acid testing shall be submitted to the Department of
6 Kentucky State Police forensic laboratory by January 1, 2017. The Department of
7 Kentucky State Police forensic laboratory shall collaborate with every Kentucky law
8 enforcement and prosecutorial agency responsible for the collection, storage, and
9 maintenance of sexual assault examination kits to develop a plan for the submission and
10 testing of all such kits.

11 ➔Section 2. KRS 15.440 is amended to read as follows:

12 (1) Each local unit of government which meets the following requirements shall be
13 eligible to share in the distribution of funds from the Law Enforcement Foundation
14 Program fund:

15 (a) Employs one (1) or more police officers;

16 (b) Pays every police officer at least the minimum federal wage;

17 (c) Maintains the minimum educational requirement of a high school degree, or
18 its equivalent as determined by the Kentucky Law Enforcement Council, for
19 employment of police officers on or after July 1, 1972, and for all sheriffs
20 appointed or elected on or after July 15, 1998, and all deputy sheriffs, and
21 state or public university police officers employed after July 15, 1998;
22 provided, however, that all police officers employed prior to July 1, 1972,
23 shall be deemed to have met the requirements of this subsection, and that all
24 sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or
25 public university police, employed prior to July 15, 1998, shall be deemed to
26 have met the requirements of this subsection;

27 (d) Requires all police officers employed on or after July 1, 1972, and all sheriffs

1 appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or
2 public university police officers employed on or after January 1, 1998, to
3 successfully complete a basic training course of at least six hundred forty
4 (640) hours' duration within one (1) year of the date of employment at a
5 school certified or recognized by the Kentucky Law Enforcement Council. All
6 sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or
7 public university police, employed prior to January 1, 1998, shall be deemed
8 to have met the requirements of this subsection. The council may, by the
9 promulgation of administrative regulations in accordance with the provisions
10 of KRS Chapter 13A, set the number of hours for basic training at a number
11 higher than six hundred forty (640) hours based upon a training curriculum
12 approved by the Kentucky Law Enforcement Council as determined by a
13 validated job task analysis;
14 (e) Requires all police officers, whether originally employed before or after July
15 1, 1972, and all sheriffs appointed or elected before, on, or after July 15, 1998,
16 and all deputy sheriffs and state or public police officers employed before, on,
17 or after July 15, 1998, to successfully complete each calendar year an in-
18 service training course, appropriate to the officer's rank and responsibility and
19 the size and location of his department, of at least forty (40) hours' duration at
20 a school certified or recognized by the Kentucky Law Enforcement Council.
21 This requirement shall be waived for the period of time that a peace officer is
22 serving on active duty in the United States Armed Forces. This waiver shall be
23 retroactive for peace officers from the date of September 11, 2001;
24 (f) Requires compliance with all provisions of law applicable to local police,
25 state or public university police, or sheriffs and their deputies, including
26 transmission of data to the centralized criminal history record information
27 system as required by KRS 17.150;

1 (g) Requires compliance with all reasonable rules and regulations, appropriate to
2 the size and location of the local police department, state or public university
3 police department, or sheriff's office, issued by the Justice and Public Safety
4 Cabinet to facilitate the administration of the fund and further the purposes of
5 KRS 15.410 to 15.510;~~[and]~~
6 (h) Possesses a written policy and procedures manual related to domestic violence
7 for law enforcement agencies that meets the standards set forth by, and has
8 been approved by, the Justice and Public Safety Cabinet. The policy shall
9 comply with the provisions of KRS 403.715 to 403.785. The policy shall
10 include purpose statements; definitions; supervisory responsibilities;
11 procedures for twenty-four (24) hour access to protective orders; procedures
12 for enforcement of court orders or relief when protective orders are violated;
13 procedures for timely and contemporaneous reporting of adult abuse and
14 domestic violence to the Cabinet for Families and Children, Department for
15 Community Based Services; victim rights, assistance, and service
16 responsibilities; and duties related to timely completion of records***; and***
17 ***(i) Possesses by January 1, 2017, a written policy and procedures manual***
18 ***related to sexual assault examinations that meets the standards set forth by,***
19 ***and has been approved by, the Justice and Public Safety Cabinet, and which***
20 ***includes:***
21 ***1. A requirement that evidence collected as a result of an examination***
22 ***performed under Section 4 of this Act be taken into custody within five***
23 ***(5) days of notice from the collecting facility that the evidence is***
24 ***available for retrieval;***
25 ***2. A requirement that evidence received from a collecting facility relating***
26 ***to an incident which occurred outside the jurisdiction of the***
27 ***department be transmitted to a department with jurisdiction within ten***

1 ***(10) days of its receipt by the department;***

2 ***3. A requirement that all evidence retrieved from a collecting facility***

3 ***under this paragraph be transmitted to the Department of Kentucky***

4 ***State Police forensic laboratory within thirty (30) days of its receipt by***

5 ***the department;***

6 ***4. A requirement that a suspect standard, if available, be transmitted to***

7 ***the Department of Kentucky State Police forensic laboratory with the***

8 ***evidence received from a collecting facility; and***

9 ***5. A process for notifying the victim from whom the evidence was***

10 ***collected of the progress of the testing, whether the testing resulted in***

11 ***a match to other DNA samples, and if the evidence is to be destroyed.***

12 ***The policy may include provisions for delaying notice until a suspect***

13 ***is apprehended or the office of the Commonwealth's attorney consents***

14 ***to the notification, but shall not automatically require the disclosure***

15 ***of the identity of any person to whom the evidence matched.***

16 (2) No local unit of government which meets the criteria of this section shall be eligible

17 to continue sharing in the distribution of funds from the Law Enforcement

18 Foundation Program fund unless the local police department, state or public

19 university police department, or sheriff's office actually begins and continues to

20 comply with the requirements of this section; provided, further, that no local unit

21 shall be eligible to share in the distribution of funds from the Law Enforcement

22 Foundation Program fund until the local police department, state or public

23 university police department, or sheriff's office has substantially complied with

24 subsection (1)(f) and (g) of this section.

25 (3) A sheriff's office shall not lose eligibility to share in the distribution of funds from

26 the Law Enforcement Foundation Program fund if the sheriff does not participate in

27 the Law Enforcement Foundation Program fund.

1 ***(4) Failure to meet a deadline established in a policy adopted pursuant to subsection***
2 ***(1)(i) of this section for the retrieval or submission of evidence shall not be a***
3 ***basis for a dismissal of a criminal action or a bar to the admissibility of the***
4 ***evidence in a criminal action.***
5 ➔Section 3. KRS 17.175 is amended to read as follows:
6 (1) A centralized database of DNA (deoxyribonucleic acid) identification records for
7 convicted or adjudicated offenders, crime scene specimens, unidentified human
8 remains, missing persons, and close biological relatives of missing persons shall be
9 established in the Department of Kentucky State Police under the direction, control,
10 and supervision of the Department of Kentucky State Police forensic laboratory.
11 The established system shall be compatible with the procedures set forth in a
12 national DNA identification index to ensure data exchange on a national level.
13 (2) The purpose of the centralized DNA database is to assist federal, state, and local
14 criminal justice and law enforcement agencies within and outside the
15 Commonwealth in the identification, detection, or exclusion of individuals who are
16 subjects of the investigation or prosecution of sex-related crimes, violent crimes, or
17 other crimes and the identification and location of missing and unidentified persons.
18 (3) ***(a)*** The Department of Kentucky State Police forensic laboratory shall receive,
19 analyze, and classify DNA samples received from the Department of
20 Corrections, the Department of Juvenile Justice, and other sources, and shall
21 file the DNA results in the centralized databases for law enforcement
22 identification and statistical purposes. ***The department shall analyze and***
23 ***classify all sexual assault evidence collection kits it receives. In cases where***
24 ***a suspect has been identified, the department may give priority to analysis***
25 ***and classification of sexual assault evidence collection kits where the***
26 ***reference standard for comparison is provided with the kit. Except as***
27 ***provided in subsection (3)(e) of this section, by July 1, 2018, the average***

1 *completion rate for this analysis and classification shall not exceed ninety*
2 *(90) days, and by July 1, 2020, the average completion rate for this analysis*
3 *and classification shall not exceed sixty (60) days.*
4 *(b) Failure to meet the completion time goals established in subsection (3)(a) of*
5 *this section shall not be a basis for a dismissal of a criminal action or a bar*
6 *to the admissibility of evidence.*
7 *(c) The Department of Kentucky State Police shall, by August 1 of each year,*
8 *report to the Legislative Research Commission the yearly average*
9 *completion rate for the immediately preceding five (5) fiscal years.*
10 *(d) With approval by the secretary of the Justice and Public Safety Cabinet in*
11 *situations in which an equipment casualty necessitates the expedited*
12 *acquisition or repair of laboratory equipment required for the analysis of*
13 *evidence, the acquisition or repair shall be exempt from the Finance and*
14 *Administration Cabinet's competitive bidding process for both acquisition*
15 *and repair purposes. Each time the authority granted by this paragraph is*
16 *used, the equipment acquisition or repair shall be fully documented within*
17 *thirty (30) days by the agency head in a written or electronic letter to the*
18 *secretary of the Finance and Administration Cabinet, attached to an*
19 *ordering or payment document in the state's procurement system, which*
20 *shall include:*
21 *1. An explanation of the equipment acquired or repaired;*
22 *2. The name of the vendor selected;*
23 *3. The amount of procurement;*
24 *4. Other price quotations obtained; and*
25 *5. The basis for selection of the vendor.*
26 *(e) To the extent appropriated funds are insufficient to meet the average*
27 *completion time goals established in subsection (3)(a) of this section, the*

1 ***Department of Kentucky State Police forensic laboratory shall no longer be***
2 ***required to meet the average completion time goals.***
3 (4) DNA identification records produced from the samples are not public records but
4 shall be confidential and used only for law enforcement purposes. DNA
5 identification records shall be exempt from the provisions of KRS 61.870 to 61.884.
6 (5) A person whose DNA profile has been included in the data bank pursuant to this
7 chapter may request expungement on the grounds that the conviction or
8 adjudication on which the authority for including the DNA profile was based has
9 been reversed and the case dismissed, or that the person successfully completed the
10 pretrial diversion program under KRS 533.258 and the charges were dismissed-
11 diverted. The Department of Kentucky State Police shall expunge all identifiable
12 information in the data bank pertaining to the person and destroy all samples from
13 the person upon receipt of:
14 (a) A written request for expungement pursuant to this section; and
15 (b) Either:
16 1. A certified copy of the court order reversing and dismissing the
17 conviction or adjudication; or
18 2. A certified copy of the court order deeming the charges dismissed-
19 diverted.
20 (6) The cabinet shall promulgate administrative regulations necessary to carry out the
21 provisions of the DNA database identification system to include procedures for
22 collection of DNA samples and the database system usage and integrity.
23 (7) The Department of Kentucky State Police shall destroy all DNA samples that are
24 not entered into the DNA database identification system.
25 (8) Any person who disseminates, receives, or otherwise uses or attempts to use
26 information in the DNA database identification system, knowing that such
27 dissemination, receipt, or use is for a purpose other than authorized by this section,

1 shall be guilty of a Class D felony.

2 ➔Section 4. KRS 216B.400 is amended to read as follows:

3 (1) Where a person has been determined to be in need of emergency care by any person
4 with admitting authority, no such person shall be denied admission by reason only
5 of his or her inability to pay for services to be rendered by the hospital.

6 (2) Every hospital of this state which offers emergency services shall provide that a
7 physician, a sexual assault nurse examiner, who shall be a registered nurse licensed
8 in the Commonwealth and credentialed by the Kentucky Board of Nursing as
9 provided under KRS 314.142, or another qualified medical professional, as defined
10 by administrative regulation promulgated by the Justice and Public Safety Cabinet
11 in consultation with the Sexual Assault Response Team Advisory Committee as
12 defined in KRS 403.707, is available on call twenty-four (24) hours each day for the
13 examinations of persons seeking treatment as victims of sexual offenses as defined
14 by KRS ***510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120,***
15 ***510.130,***~~[510.010 to]~~ 510.140, 530.020, 530.064(1)(a), and 531.310.

16 (3) An examination provided in accordance with this section of a victim of a sexual
17 offense may be performed in a sexual assault examination facility as defined in
18 KRS 216B.015. An examination under this section shall apply only to an
19 examination of a victim.

20 (4) The physician, sexual assault nurse examiner, or other qualified medical
21 professional, acting under a statewide medical forensic protocol which shall be
22 developed by the Justice and Public Safety Cabinet in consultation with the Sexual
23 Assault Response Team Advisory Committee as defined in KRS 403.707, and
24 promulgated by the secretary of justice and public safety pursuant to KRS Chapter
25 13A shall, upon the request of any peace officer or prosecuting attorney, and with
26 the consent of the victim, or upon the request of the victim, examine such person for
27 the purposes of providing basic medical care relating to the incident and gathering

1 samples that may be used as physical evidence. This examination shall include but
2 not be limited to:
3 (a) Basic treatment and sample gathering services; and
4 (b) Laboratory tests, as appropriate.
5 (5) Each victim shall be informed of available services for treatment of sexually
6 transmitted infections, pregnancy, and other medical and psychiatric problems.
7 Pregnancy counseling shall not include abortion counseling or referral information.
8 (6) Each victim shall be informed of available crisis intervention or other mental health
9 services provided by regional rape crisis centers providing services to victims of
10 sexual assault.
11 (7) Notwithstanding any other provision of law, a minor may consent to examination
12 under this section. This consent is not subject to disaffirmance because of minority,
13 and consent of the parents or guardians of the minor is not required for the
14 examination.
15 (8) (a) The examinations provided in accordance with this section shall be paid for by
16 the Crime Victims' Compensation Board at a rate to be determined by the
17 administrative regulation promulgated by the board after consultation with the
18 Sexual Assault Response Team Advisory Committee as defined in KRS
19 403.707.
20 (b) Upon receipt of a completed claim form supplied by the board and an
21 itemized billing for a forensic sexual assault examination or related services
22 that are within the scope of practice of the respective provider and were
23 performed no more than twelve (12) months prior to submission of the form,
24 the board shall reimburse the hospital or sexual assault examination facility,
25 pharmacist, health department, physician, sexual assault nurse examiner, or
26 other qualified medical professional as provided in administrative regulations
27 promulgated by the board pursuant to KRS Chapter 13A. Reimbursement

1 shall be made to an out-of-state nurse who is credentialed in the other state to
2 provide sexual assault examinations, an out-of-state hospital, or an out-of-
3 state physician if the sexual assault occurred in Kentucky.
4 (c) Independent investigation by the Crime Victims' Compensation Board shall
5 not be required for payment of claims under this section; however, the board
6 may require additional documentation or proof that the forensic medical
7 examination was performed.
8 (9) No charge shall be made to the victim for sexual assault examinations by the
9 hospital, the sexual assault examination facility, the physician, the pharmacist, the
10 health department, the sexual assault nurse examiner, other qualified medical
11 professional, the victim's insurance carrier, or the Commonwealth.
12 (10) (a) Each victim shall have the right to determine whether a report or other
13 notification shall be made to law enforcement, except where reporting of
14 abuse and neglect of a child, spouse, and other vulnerable adult is required, as
15 set forth in KRS 209.030, 209A.030, and 620.030. No victim shall be denied
16 an examination because the victim chooses not to file a police report,
17 cooperate with law enforcement, or otherwise participate in the criminal
18 justice system.
19 (b) ***If the victim chooses to report to law enforcement, the hospital shall notify***
20 ***law enforcement within twenty-four (24) hours.***
21 ***(c)*** 1. All samples collected during an exam where the victim has chosen not
22 to immediately report to law enforcement shall be stored, released, and
23 destroyed, if appropriate, in accordance with an administrative
24 regulation promulgated by the Justice and Public Safety Cabinet in
25 consultation with the Sexual Assault Response Team Advisory
26 Committee as defined in KRS 403.707.
27 2. Facilities collecting samples pursuant to this section may provide the

1 required secure storage, sample destruction, and related activities, or
2 may enter into agreements with other agencies qualified to do so,
3 pursuant to administrative regulation.
4 3. All samples collected pursuant to this section shall be stored for at least
5 ***one (1) year***~~[ninety (90) days]~~ from the date of collection in accordance
6 with the administrative regulation promulgated pursuant to this
7 subsection.
8 4. Notwithstanding KRS 524.140, samples collected during exams where
9 the victim chose not to report immediately or file a report within ***one (1)***
10 ***year***~~[ninety (90) days]~~ after collection may be destroyed as set forth in
11 accordance with the administrative regulation promulgated pursuant to
12 this subsection***. The victim shall be informed of this process at the time***
13 ***of the examination***. No hospital, sexual assault examination facility, or
14 designated storage facility shall be liable for destruction of samples after
15 the required storage period has expired.
16 ➔Section 5. KRS 403.707 is amended to read as follows:
17 (1) The Council on Domestic Violence and Sexual Assault shall create a Sexual
18 Assault Response Team Advisory Committee.
19 (2) The Sexual Assault Response Team Advisory Committee shall be co-chaired by the
20 executive director of the Kentucky Association of Sexual Assault Programs and the
21 commissioner of the Department of Kentucky State Police or the commissioner's
22 designee.
23 (3) The membership of the Sexual Assault Response Team Advisory Committee shall
24 consist of the following:
25 (a) The executive director of the Kentucky Board of Nursing or the executive
26 director's designee;
27 (b) The executive director of the Kentucky Nurses Association or the executive

1 director's designee;
2 (c) The executive director of the Kentucky Hospital Association or the executive
3 director's designee;
4 (d) ***The executive director of the Kentucky Association of Children's Advocacy***
5 ***Centers;***
6 ***(e)*** The director of the Department of Kentucky State Police Crime Lab;
7 ***(f)***[~~(e)~~] The chief medical examiner or the chief medical examiner's designee;
8 ***(g)***[~~(f)~~] The commissioner of the Department for Community Based Services or
9 the commissioner's designee;
10 ***(h)***[~~(g)~~] The director of the Victims' Advocacy Division of the Office of the
11 Attorney General or the director's designee;
12 ***(i)***[~~(h)~~] A sexual assault nurse examiner serving on the Governor's Council on
13 Domestic Violence and Sexual Assault;
14 ***(j)***[~~(i)~~] A representative from a sexual assault response team serving on the
15 Council on Domestic Violence and Sexual Assault;
16 ***(k)***[~~(j)~~] A physician appointed by the co-chairs of the Council on Domestic
17 Violence and Sexual Assault; and
18 ***(l)***[~~(k)~~] A Commonwealth's attorney or an assistant Commonwealth's attorney
19 appointed by the co-chairs of the Council on Domestic Violence and Sexual
20 Assault.
21 (4) Members appointed under subsection (3)***(i) to (l)***[~~(h) to (k)~~] of this section shall
22 serve at the pleasure of the appointing authority and shall not serve longer than four
23 (4) years without reappointment.
24 (5) The Sexual Assault Response Team Advisory Committee shall:
25 (a) Serve in an advisory capacity to the Kentucky Board of Nursing in
26 accomplishing the duties set forth under KRS 314.142;
27 (b) Serve in an advisory capacity to the Justice and Public Safety Cabinet in the

1 development of the statewide sexual assault protocol required under KRS
2 216B.400(4);
3 (c) Develop a model protocol for the operation of sexual assault response teams
4 which shall include the roles of sexual assault nurse examiners, physicians,
5 law enforcement, prosecutors, and victim advocates;
6 (d) ***Provide assistance to each regional rape crisis center, as designated by the***
7 ***Cabinet for Health and Family Services, in establishing a regional sexual***
8 ***assault response team;***
9 ***(e) Develop model policies for law enforcement agencies related to handling***
10 ***sexual assault examination kits and investigating sexual assaults with a***
11 ***victim-centered, evidence-based approach;***
12 ***(f) By January 1, 2018, report to the General Assembly on the results of the***
13 ***analysis of previously untested sexual assault examination kits submitted to***
14 ***the Department of Kentucky State Police forensic laboratory pursuant to***
15 ***Section 1 of this Act, including whether analysis of those kits led to the***
16 ***identification and prosecution of suspects and the cost to society of the***
17 ***offenses committed by the suspects identified;***
18 ***(g) By July 1, 2018, and by each July 1 thereafter, report to the General***
19 ***Assembly and to the secretary of the Justice and Public Safety Cabinet on***
20 ***the number of sexual assaults reported, the number of sexual assault***
21 ***examination kits submitted to the Department of Kentucky State Police***
22 ***forensic laboratory, the number of kits tested, and the number of charges***
23 ***filed and convictions obtained in sexual assault cases in the previous***
24 ***calendar year;***
25 ***(h)*** Provide information and recommendations concerning the activities of the
26 agency or organization represented by each individual committee member as
27 related to sexual assault issues and programs within the purview of the agency

1 or organization; and

2 *(i)*[~~(e)~~] Recommend to the Council on Domestic Violence and Sexual Assault

3 any changes in statute, administrative regulation, training, policy, and budget

4 to promote a multidisciplinary response to sexual assault.

5 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO

6 READ AS FOLLOWS:

7 ***(1) The Department of Kentucky State Police shall request from other law***

8 ***enforcement agencies, pursuant to KRS 17.150, and shall collect statistical data***

9 ***regarding the reporting and investigation of any person charged with committing,***

10 ***attempting to commit, or complicity to a sexual offense as defined by KRS***

11 ***510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120, 510.130,***

12 ***510.140, 530.020, 530.064(1)(a), and 531.310, and on the number of sexual***

13 ***assault evidence kits, as defined in Section 4 of this Act, which are submitted to***

14 ***law enforcement agencies, the number of such kits submitted to the Department***

15 ***of Kentucky State Police forensic laboratory, and the number of kits tested.***

16 ***(2) The information collected pursuant to this section for the previous calendar year***

17 ***shall be provided by May 1, 2018, and by each May 1 thereafter to the Sexual***

18 ***Assault Response Team Advisory Committee as defined in Section 5 of this Act.***

19 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO

20 READ AS FOLLOWS:

21 ***(1) The Administrative Office of the Courts shall collect statistical data regarding the***

22 ***prosecution, dismissal, conviction, or acquittal of any person charged with***

23 ***committing, attempting to commit, or complicity to a sexual offense as defined by***

24 ***KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120,***

25 ***510.130, 510.140, 530.020, 530.064(1)(a), and 531.310.***

26 ***(2) The information collected pursuant to this section for the previous calendar year***

27 ***shall be provided by May 1 of 2018 and by each May 1 thereafter to the Sexual***

1 ***Assault Response Team Advisory Committee as defined in Section 5 of this Act.***

2 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO

3 READ AS FOLLOWS:

4 ***(1) The secretary of the Cabinet for Health and Family Services shall designate as a***

5 ***SANE-ready hospital any acute care hospital which has certified, and recertifies***

6 ***annually, that a sexual assault nurse examiner as defined in KRS 314.011 is***

7 ***available on call twenty-four (24) hours each day for the examination of persons***

8 ***seeking treatment as victims of sexual offenses as defined by KRS 510.040,***

9 ***510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120, 510.130, 510.140,***

10 ***530.020, 530.064(1)(a), and 531.310.***

11 ***(2) The secretary shall suspend or revoke an acute care hospital's designation as***

12 ***SANE-ready hospital if the hospital fails to recertify annually, or if it notifies the***

13 ***secretary that it no longer meets the requirements of this section.***

14 ***(3) (a) The cabinet shall maintain a list of SANE-ready hospitals and post the list***

15 ***on its Web site. The cabinet shall provide the list and periodic updates to the***

16 ***Kentucky Board of Emergency Medical Services.***

17 ***(b) The Kentucky Board of Emergency Medical Services shall share the list***

18 ***with each local emergency medical services provider at least annually, and***

19 ***as new centers and hospitals are designated and certified.***

20 ➔Section 9. KRS 15.334 is amended to read as follows:

21 (1) The Kentucky Law Enforcement Council shall approve mandatory training subjects

22 to be taught to all students attending a law enforcement basic training course that

23 include but are not limited to:

24 (a) Abuse, neglect, and exploitation of the elderly and other crimes against the

25 elderly, including the use of multidisciplinary teams in the investigation and

26 prosecution of crimes against the elderly;

27 (b) The dynamics of domestic violence, pediatric abusive head trauma, as defined

1 in KRS 620.020, child physical and sexual abuse, and rape; child
2 development; the effects of abuse and crime on adult and child victims,
3 including the impact of abuse and violence on child development; legal
4 remedies for protection; lethality and risk issues; profiles of offenders and
5 offender treatment; model protocols for addressing domestic violence, rape,
6 pediatric abusive head trauma, as defined in KRS 620.020, and child abuse;
7 available community resources and victim services; and reporting
8 requirements. This training shall be developed in consultation with legal,
9 victim services, victim advocacy, and mental health professionals with
10 expertise in domestic violence, child abuse, and rape. Training in recognizing
11 pediatric abusive head trauma may be designed in collaboration with
12 organizations and agencies that specialize in the prevention and recognition of
13 pediatric abusive head trauma approved by the secretary of the Cabinet for
14 Health and Family Services;
15 (c) Human immunodeficiency virus infection and acquired immunodeficiency
16 virus syndrome;
17 (d) Identification and investigation of, responding to, and reporting bias-related
18 crime, victimization, or intimidation that is a result of or reasonably related to
19 race, color, religion, sex, or national origin;~~[and]~~
20 (e) The characteristics and dynamics of human trafficking, state and federal laws
21 relating to human trafficking, the investigation of cases involving human
22 trafficking, including but not limited to screening for human trafficking, and
23 resources for assistance to the victims of human trafficking***; and***
24 ***(f) Beginning January 1, 2017, the council shall require that a law***
25 ***enforcement basic training course include at least eight (8) hours of***
26 ***training relevant to sexual assault.***
27 (2) (a) The council shall develop and approve mandatory professional development

1 training courses to be presented to all certified peace officers. A mandatory
2 professional development training course shall be first taken by a certified
3 peace officer in the training year following its approval by the council and
4 biennially thereafter. A certified peace officer shall be required to take these
5 courses no more than two (2) times in eight (8) years.
6 (b) Beginning January 1, 2011, the council shall require that one and one-half
7 (1.5) hours of professional development covering the recognition and
8 prevention of pediatric abusive head trauma be included in the curriculum of
9 all mandatory professional development training courses such that all officers
10 shall receive this training at least once by December 31, 2013. The one and
11 one-half (1.5) hours required under this section shall be included in the current
12 number of required continuing education hours.
13 ***(c) Beginning January 1, 2017, the council shall establish a forty (40) hour***
14 ***sexual assault investigation training course. By January 1, 2019, agencies***
15 ***shall have one (1) or more officers trained in this curriculum, as follows:***
16 ***1. Agencies with five (5) or fewer officers shall have at least one (1)***
17 ***officer trained in sexual assault investigation;***
18 ***2. Agencies with more than five (5) officers but fewer than thirty (30)***
19 ***officers shall have at least two (2) officers trained in sexual assault***
20 ***investigation; and***
21 ***3. Agencies with thirty (30) or more officers shall have at least four (4)***
22 ***officers trained in sexual assault investigation.***
23 (3) The Justice and Public Safety Cabinet shall provide training on the subjects of
24 domestic violence and abuse and may do so utilizing currently available technology.
25 All certified peace officers shall be required to complete this training at least once
26 every two (2) years.
27 (4) The council shall promulgate administrative regulations in accordance with KRS

1 Chapter 13A to establish mandatory basic training and professional development
2 training courses.
3 (5) The council shall make an annual report by December 31 each year to the
4 Legislative Research Commission that details the subjects and content of mandatory
5 professional development training courses established during the past year and the
6 subjects under consideration for future mandatory training.
7 ➔Section 10. KRS 524.140 is amended to read as follows:
8 (1) As used in this section:
9 (a) "Defendant" means a person charged with a:
10 1. Capital offense, Class A felony, Class B felony, or Class C felony; or
11 2. Class D felony under KRS Chapter 510; and
12 (b) "Following trial" means after:
13 1. The first appeal authorized by the Constitution of Kentucky in a criminal
14 case has been decided; or
15 2. The time for the first appeal authorized by the Constitution of Kentucky
16 in a criminal case has lapsed without an appeal having been filed.
17 (2) No item of evidence gathered by law enforcement, prosecutorial, or defense
18 authorities that may be subject to deoxyribonucleic acid (DNA) evidence testing
19 and analysis in order to confirm the guilt or innocence of a criminal defendant shall
20 be disposed of prior to trial of a criminal defendant unless:
21 (a) ***The evidence has been in custody not less than fifty (50) years; or***
22 ***(b) The evidence has been in custody not less than ten (10) years; and***
23 ***1.*** The prosecution has determined that the defendant will not be tried for
24 the criminal offense; ***and***
25 ***2.*** ~~[(b)]~~ The prosecution has made a motion, before the court in which the
26 case would have been tried, to destroy the evidence~~[; and~~
27 ~~(c) The court has, following an adversarial proceeding in which the prosecution~~

1 ~~and the defendant were heard, authorized the destruction of the evidence by~~
2 ~~court order~~].
3 (3) No item of evidence gathered by law enforcement, prosecutorial, or defense
4 authorities that may be subject to deoxyribonucleic acid (DNA) evidence testing
5 and analysis in order to confirm the guilt or innocence of a criminal defendant shall
6 be disposed of following the trial unless:
7 (a) The evidence, together with DNA evidence testing and analysis results, has
8 been presented at the trial, and the defendant has been found guilty, pled
9 guilty, or entered an Alford plea at the trial;
10 (b) The evidence was not introduced at the trial, or if introduced at the trial was
11 not the subject of DNA testing and analysis, and the defendant has been found
12 guilty, pled guilty, or entered an Alford plea at the trial, and the trial court has
13 ordered the destruction of the evidence after an adversarial hearing conducted
14 upon motion of either the prosecution or the defendant;
15 (c) The trial resulted in the defendant being found not guilty or the charges were
16 dismissed after jeopardy attached, whether or not the evidence was introduced
17 at the trial or was subject to DNA testing and analysis or not, and the trial
18 court ordered the destruction of the evidence after an adversarial hearing
19 conducted upon motion of either the prosecution or the defendant; or
20 (d) The trial resulted in the dismissal of charges against the defendant, and the
21 defendant may be subject to retrial, in which event the evidence shall be
22 retained until after the retrial, which shall be considered a new trial for the
23 purposes of this section.
24 (4) The burden of proof for a motion to destroy evidence that may be subject to DNA
25 testing and analysis shall be upon the party making the motion, and the court may
26 permit the destruction of the evidence under this section upon good cause shown
27 favoring its destruction.

1 (5) It is recognized by the General Assembly that the DNA evidence laboratory testing
2 and analysis procedure consumes and destroys a portion of the evidence or may
3 destroy all of the evidence if the sample is small. The consuming and destruction of
4 evidence during the laboratory analysis process shall not result in liability for its
5 consumption or destruction if the following conditions are met:
6 (a) The Department of Kentucky State Police laboratory uses a method of testing
7 and analysis which preserves as much of the biological material or other
8 evidence tested and analyzed as is reasonably possible; or
9 (b) If the Department of Kentucky State Police laboratory knows or reasonably
10 believes that the entire sample of evidence to be tested and analyzed that the
11 laboratory, prior to the testing or analysis of the evidence, notifies in writing
12 the court which ordered the testing and analysis and counsel for all parties:
13 1. That the entire sample of evidence may be destroyed by the testing and
14 analysis;
15 2. The possibility that another laboratory may be able to perform the
16 testing and analysis in a less destructive manner with at least equal
17 results;
18 3. The name of the laboratory capable of performing the testing and
19 analysis, the costs of testing and analysis, the advantages of sending the
20 material to that other laboratory, and the amount of biological material
21 or other evidence which might be saved by alternative testing and
22 analysis; and
23 4. The Department of Kentucky State Police laboratory follows the
24 directive of the court with regard to the testing and analysis; or
25 (c) If the Department of Kentucky State Police laboratory knows or reasonably
26 believes that so much of the biological material or evidence may be consumed
27 or destroyed in the testing and analysis that an insufficient sample will remain

1 for independent testing and analysis that the laboratory follows the procedure
2 specified in paragraph (b) of this subsection.
3 (6) Destruction of evidence in violation of this section shall be a violation of KRS
4 524.100.
5 (7) Subject to KRS 422.285(9), the appropriate governmental entity shall retain any
6 biological material secured in connection with a criminal case for the period of time
7 that any person remains incarcerated in connection with that case. The
8 governmental entity shall have the discretion to determine how the evidence is
9 retained pursuant to this section, provided that the evidence is retained in a
10 condition suitable for DNA testing and analysis.
11 ➔Section 11. Sections 1 to 10 of this Act shall be known as the Sexual Assault
12 Forensic Evidence (SAFE) Act of 2016.
13 ➔Section 12. Whereas delay in processing sexual assault evidence kits
14 undermines public safety and confidence in the criminal justice system and no just cause
15 exists for delay, an emergency is declared to exist, and this Act takes effect upon its
16 passage and approval by the Governor or upon its otherwise becoming law.

President of Senate

Speaker-House of Representatives

Attest: Chief Clerk of Senate

Approved Governor

Date 8 APRIL 2016