

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2024 REGULAR SESSION
Unofficial Document

Amend printed copy of **HB 5/HCS 1**

On page 1, lines 19 through 26, by deleting Section 2 in its entirety and inserting in place thereof:

"➔SECTION 2. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of this chapter, or Section 30 of this Act, a person shall not be eligible for probation, parole, conditional discharge, conditional release, or any other form of release prior to the completion of his or her sentence if, in the commission of the offense, he or she:

- (1) Possessed a firearm and was previously convicted of a felony;**
- (2) Possessed a firearm that he or she knew or was reckless in not knowing was stolen; or**
- (3) Possessed a firearm and was on probation, parole, conditional discharge, conditional release, or any other form of release after conviction of an offense of violence."**; and

On page 3, line 13, through page 5, line 8, by deleting Sections 5 to 7 in their entirety and inserting in place thereof:

"➔Section 5. KRS 507.030 is amended to read as follows:

- (1) A person is guilty of manslaughter in the first degree when:
 - (a) With intent to cause serious physical injury to another person, he **or she** causes the death of such person or of a third person;

Amendment No. HFA 27

Rep. Rep. Jared Bauman

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRD Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

Doc. ID: XXXX

Not for Filing

Unofficial Document

- (b) With intent to cause the death of another person, he or she causes the death of such person or of a third person under circumstances which do not constitute murder because he or she acts under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of KRS 507.020; ~~or~~
- (c) Through circumstances not otherwise constituting the offense of murder, he or she intentionally abuses another person or knowingly permits another person of whom he or she has actual custody to be abused and thereby causes death to a person twelve (12) years of age or less, or who is physically helpless or mentally helpless; or
- (d) He or she knowingly sells fentanyl or a fentanyl derivative to another person, and the injection, ingestion, inhalation, or other introduction of the fentanyl or fentanyl derivative causes the death of the person.**
- (2) Manslaughter in the first degree is a Class B felony.
- ➔Section 6. KRS 507.040 is amended to read as follows:
- (1) A person is guilty of manslaughter in the second degree when he or she wantonly causes the death of another person, including but not limited to situations where the death results from the person's:
- (a) Operation of a motor vehicle;
- (b) Leaving a child under the age of eight (8) years in a motor vehicle under circumstances which manifest an extreme indifference to human life and which create a grave risk of death to the child, thereby causing the death of the child; ~~or~~
- (c) Unlawful distribution for remuneration of a Schedule I or II controlled substance when the controlled substance is the proximate cause of death; or
- (d) Knowing distribution of fentanyl or a fentanyl derivative to another person without remuneration, and the injection, ingestion, inhalation, or other introduction of the fentanyl or fentanyl derivative causes the death of the person.**

Unofficial Document

(2) Manslaughter in the second degree is a Class C felony.

➔Section 7. KRS 218A.133 is amended to read as follows:

(1) As used in this section:

- (a) "Drug overdose" means an acute condition of physical illness, coma, mania, hysteria, seizure, cardiac arrest, cessation of breathing, or death which reasonably appears to be the result of consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a layperson would reasonably believe requires medical assistance; and
- (b) "Good faith" does not include seeking medical assistance during the course of the execution of an arrest warrant, or search warrant, or a lawful search.

(2) A person shall not be charged with or prosecuted for a criminal offense prohibiting the possession of a controlled substance or the possession of drug paraphernalia, **for a violation of subsection (1)(d) of Section 5 of this Act, or for an offense punishable under subsection (1)(d) of Section 6 of this Act or subsection (3)(c) of Section 8 of this Act** if:

- (a) In good faith, medical assistance with a drug overdose is sought from a public safety answering point, emergency medical services, a law enforcement officer, or a health practitioner because the person:
 - 1. Requests emergency medical assistance for himself or herself or another person;
 - 2. Acts in concert with another person who requests emergency medical assistance; or
 - 3. Appears to be in need of emergency medical assistance and is the individual for whom the request was made;
- (b) The person remains with, or is, the individual who appears to be experiencing a drug overdose until the requested assistance is provided; and
- (c) The evidence for the charge or prosecution is obtained as a result of the drug

Unofficial Document

overdose and the need for medical assistance.

- (3) The provisions of subsection (2) of this section shall not extend to the investigation and prosecution of any other crimes committed by a person who otherwise qualifies under this section.
- (4) When contact information is available for the person who requested emergency medical assistance, it shall be reported to the local health department. Health department personnel shall make contact with the person who requested emergency medical assistance in order to offer referrals regarding substance abuse treatment, if appropriate.
- (5) A law enforcement officer who makes an arrest in contravention of this section shall not be criminally or civilly liable for false arrest or false imprisonment if the arrest was based on probable cause."; and

On page 6, line 18, after "another" by inserting "without lawful authority or ownership";
and

On page 14, after line 23, by inserting:

"(5) Nothing in this section shall prevent a person from sleeping temporarily in his or her vehicle parked lawfully on a public road, street, or parking lot, where the sleeping and parking of the vehicle at the location occur for a period of less than twelve (12) hours.";

and

On page 15, line 7, after the word "apply", by inserting "to statutorily created housing programs or"; and

On page 17, line 16, to page 18, line 3, by deleting Section 22 in its entirety and inserting in place thereof:

"➔Section 22. KRS 202C.050 is amended to read as follows:

- (1) No respondent shall be involuntarily committed under this chapter unless there is a determination that:

Unofficial Document

- (a) The respondent presents a danger to self or others as a result of his or her mental condition *or as manifested by recent behavior causing, attempting, or threatening harm;*
- (b) The respondent needs care, training, or treatment in order to mitigate or prevent substantial physical harm to self or others; *and*
- (c) ~~{The respondent has a demonstrated history of criminal behavior that has endangered or caused injury to others or has a substantial history of involuntary hospitalizations under KRS Chapter 202A or 202B prior to the commission of the charged crime; and~~
- ~~(d)~~—A less restrictive alternative mode of treatment would endanger the safety of the respondent or others.
- (2) When a respondent is involuntarily committed under this chapter, the cabinet shall place that respondent in a forensic psychiatric facility designated by the secretary."; and
- On page 18, line 7, after "*facility*", by inserting "*, if and when funds are available*"; and
- On page 33, by deleting lines 25 to 27 in their entirety and inserting in place thereof:
- "~~(4)~~~~(3)~~ *Any person enumerated in subsection (1) of this section shall be immune from criminal liability and shall only be subject to civil liability for failing to exercise reasonable care for any authority granted under this section.*"; and
- On page 34, line 4, to page 37, line 10, by deleting Section 30 in its entirety and inserting in place thereof:
- "➔Section 30. KRS 439.3401 is amended to read as follows:
- (1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission *or attempted commission* of:
- (a) A capital offense;
- (b) A Class A felony;
- (c) A ~~{Class B}~~ felony involving the death of the victim or serious physical injury to a

Unofficial Document

victim;

- (d) ~~[An offense described in KRS 507.040 or 507.050 where the offense involves the killing of a peace officer, firefighter, or emergency medical services personnel while the peace officer, firefighter, or emergency medical services personnel was acting in the line of duty;~~
- (e) ~~A Class B felony involving criminal attempt to commit murder under KRS 506.010 if the victim of the offense is a clearly identifiable peace officer, firefighter, or emergency medical services personnel acting in the line of duty, regardless of whether an injury results;~~
- (f) ~~The commission or attempted commission of]A felony sexual offense described in KRS Chapter 510;~~
- (e)~~(g)~~ Use of a minor in a sexual performance as described in KRS 531.310;
- (f)~~(h)~~ Promoting a sexual performance by a minor as described in KRS 531.320;
- (g)~~(i)~~ Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);
- (h)~~(j)~~ Human trafficking under KRS 529.100 involving commercial sexual activity where the victim is a minor;
- (i)~~(k)~~ Criminal abuse in the first degree as described in KRS 508.100;
- (j)~~(l)~~ Burglary in the first degree accompanied by the commission or attempted commission of an assault as described in KRS 508.010, 508.020, 508.032, or 508.060;
- (k)~~(m)~~ Burglary in the first degree accompanied by commission or attempted commission of kidnapping as described in~~[prohibited by]~~ KRS 509.040;
- (l) **Burglary in the first degree as described in KRS 511.020, if a person other than a participant in the crime was present in the building during the commission of the**

Unofficial Document

offense:

~~(m)~~~~(n)~~ Robbery in the first degree **as described in KRS 515.020;** ~~or~~

~~(n)~~~~(o)~~ **Robbery in the second degree as described in KRS 515.030;**

~~(o)~~ Incest as described in KRS 530.020(2)(b) or (c);

~~(p)~~ **Arson in the first degree as described in KRS 513.020;**

~~(q)~~ **Strangulation in the first degree as described in KRS 508.170;**

~~(r)~~ **Carjacking as described in Section 9 of this Act;**

~~(s)~~ **A Class B felony violation of promoting contraband in the first degree as described in Section 15 of this Act; or**

~~(t)~~ **Wanton endangerment in the first degree as described in Section 38 of this Act involving the discharge of a firearm.**

~~(2)~~ The court shall designate in its judgment if:

~~(a)~~ The victim suffered death or serious physical injury; **and**

~~(b)~~ **A person other than a participant in the crime was present in the building during the commission of burglary in the first degree.**

~~(3)~~~~(2)~~ A violent offender who has been convicted of a capital offense and who has received a life sentence ~~{and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole}~~, or a Class A felony and receives a life sentence, or to death and his or her sentence is commuted to a life sentence shall not be released on probation or parole until he or she has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.

~~(4)~~~~(3)~~ ~~{(a)}~~ A violent offender ~~{who has been convicted of a capital offense or Class A felony}~~ with a sentence of a term of years ~~{or Class B felony}~~ shall not be released on

probation, shock probation, ~~or~~ parole, conditional discharge, or other form of early release until he or she has served at least eighty-five percent (85%) of the sentence imposed.

~~{(b) A violent offender who has been convicted of a violation of KRS 507.040 where the victim of the offense was clearly identifiable as a peace officer, a firefighter, or emergency medical services personnel, and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed.~~

~~{(c) A violent offender who has been convicted of a violation of KRS 507.040 or 507.050 where the victim of the offense was a peace officer, a firefighter, or emergency medical services personnel, and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least fifty percent (50%) of the sentence imposed.~~

~~{(d) Any offender who has been convicted of a homicide or fetal homicide offense under KRS Chapter 507 or 507A in which the victim of the offense died as the result of an overdose of a Schedule I controlled substance and who is not otherwise subject to paragraph (a), (b), or (c) of this subsection shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed.}~~

~~(5){(4)} A violent offender shall only~~{not}~~ be awarded ~~{any}~~ credit on his or her sentence authorized by KRS 197.045(1)(a)1.~~{(b)1. In no event shall a violent offender be given credit on his or her sentence if the credit reduces the term of imprisonment to less than eighty five percent (85%) of the sentence.}~~~~

~~(6){(5)} This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the~~

offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.

~~(7)(6)~~ This section shall apply only to those persons who commit offenses after July 15, 1998.

~~(8)(7)~~ For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.

~~(9)(8)~~ The provisions of subsection (1) of this section extending the definition of "violent offender" to persons convicted of or pleading guilty to robbery in the first degree shall apply only to persons whose crime was committed after July 15, 2002.

➔Section 31. KRS 525.045 is amended to read as follows:

(1) A person is guilty of the separate offense of terrorism if conviction of the underlying offense committed would classify the person as a violent offender under KRS 439.3401(1)(a), (b), or (c)~~, or (d)~~, or the underlying offense was an offense under KRS 527.200, 527.205, or 527.210 and the person had the intent to:

(a) Intimidate the civilian population at large, or an identifiable group of the civilian population; or

(b) Influence, through intimidation, the conduct or activities of the government of the United States, the Commonwealth, any other state, or any unit of local government.

(2) A conviction of terrorism shall be punishable by a term of imprisonment for life without benefit of probation or parole. An offense under this section is a separate offense from the underlying offense and shall not merge with other offenses.

(3) A person convicted under this section shall not be released on probation, shock probation, parole, conditional discharge, or any other form of conditional release.

(4) (a) All real and personal property used or intended for use in the course of, derived from,

or realized through an offense punishable pursuant to this section shall be subject to lawful seizure and forfeiture to the Commonwealth as set forth in KRS 218A.405 to 218A.460, except that any property seized and forfeited to the Commonwealth under this section that was used in an act of terror, as defined in KRS 411.025, shall be held for at least five (5) years for the purposes of paying any damages awarded under KRS 411.025.

(b) Notwithstanding paragraph (a) of this subsection, any real or personal property:

1. Taken by a lender in good faith as collateral for the extension of credit and recorded as provided by law;
2. Of an owner who made a bona fide purchase of the property; or
3. Of a person with rightful possession of the property;

shall not be subject to forfeiture unless the lender, owner, or person had knowledge of an offense under this section.

(5) Damages awarded pursuant to a successful claim under KRS 411.025 may be paid by property lawfully seized and forfeited under this section."; and

By renumbering subsequent sections accordingly; and

On page 40, lines 10 and 11, by deleting "to a law enforcement agency, which may include an agency established by the local board of education." and inserting in place thereof "pursuant to subsection (10) of this section."; and

On page 40, lines 12 to 14, by deleting "to a law enforcement agency not established by the local board of education and to the Department of Kentucky State Police" and inserting in place thereof "pursuant to subsection (10) of this section"; and

On page 40, lines 27, to page 41, line 1, by deleting "in the same manner as required by that subsection." and inserting in place thereof "pursuant to subsection (10) of this section."; and

On page 42, after line 26, by inserting:

"(10) Notice required pursuant to this section shall be given to any law enforcement agency created by the local board of education, and to:

(a) A local law enforcement agency not created by the local board of education; or

(b) The Department of Kentucky State Police."; and

On page 47, line 1, by deleting "**Section 35 of this Act**" and inserting in place thereof "**Section 36 of this Act**"; and

On page 59, by deleting lines 4 through 6 in their entirety and inserting in place thereof:

"(b) **Except as provided in paragraph (c) of this subsection, a** violation of an order of protection is a Class A misdemeanor.

(c) 1. A second or subsequent violation of an order of protection which:

a. Occurs within five (5) years; and

b. Is an intentional, in-person violation;

is a Class D felony."; and

On page 60, by deleting lines 3 through 5 in their entirety and inserting in place thereof:

"(b) **Except as provided in paragraph (c) of this subsection, a** violation of an order of protection is a Class A misdemeanor.

(c) 1. A second or subsequent violation of an order of protection which:

a. Occurs within five (5) years; and

b. Is an intentional, in-person violation;

is a Class D felony.".