

1 AN ACT relating to confiscated firearms.

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

3 ➔Section 1. KRS 16.220 is amended to read as follows:

- 4 (1) Subject to the duty to return confiscated firearms to innocent owners pursuant to  
5 KRS 500.090, **and subsection (7) of this section**, all firearms confiscated by the  
6 Department of Kentucky State Police and not retained for official use pursuant to  
7 KRS 500.090 shall be ~~sold at public auction to~~:
- 8 (a) **Sold at public action to** federally licensed firearms dealers holding a license  
9 appropriate for the type of firearm sold; or
- 10 (b) For a firearm which was used in a homicide, **destroyed**~~any person who~~  
11 ~~certifies on a form provided by the Department of Kentucky State Police prior~~  
12 ~~to placing a bid that he or she will, upon completion of the auction, leave the~~  
13 ~~firearm with the Department of Kentucky State Police for destruction. A state~~  
14 ~~or local government or agency thereof shall not purchase a firearm under this~~  
15 ~~paragraph~~.
- 16 (2) Any provision of KRS Chapter 45 or 45A relating to disposition of property to the  
17 contrary notwithstanding, the Department of Kentucky State Police shall:
- 18 (a) Conduct any auction specified by this section;
- 19 (b) Retain for departmental use twenty percent (20%) of the gross proceeds from  
20 any auction specified by this section; **and**
- 21 (c) Transfer remaining proceeds of the sale to the account of the Kentucky Office  
22 of Homeland Security for use as provided in subsection (5) of this section~~;~~  
23 **and**
- 24 ~~(d) For any sale pursuant to subsection (1)(b) of this section, destroy the firearm~~.
- 25 (3) Prior to the **destruction or** sale of any firearm, the Department of Kentucky State  
26 Police shall make an attempt to determine if the firearm to be **destroyed or** sold has  
27 been stolen or otherwise unlawfully obtained from an innocent owner and return the

1 firearm to its lawful innocent owner, unless that person is ineligible to purchase a  
2 firearm under federal law.

3 (4) The Department of Kentucky State Police shall receive firearms and ammunition  
4 confiscated by or abandoned to every law enforcement agency in Kentucky. The  
5 department shall dispose of the firearms received in the manner specified in  
6 subsections (1) and (2) of this section. However, firearms ~~that~~<sup>which</sup> are not  
7 retained for official use, returned to an innocent lawful owner, destroyed, or  
8 transferred to another government agency or public museum shall be sold as  
9 provided in subsection (1) of this section.

10 (5) The proceeds of firearms sales shall be utilized by the Kentucky Office of  
11 Homeland Security to provide grants to city, county, charter county, unified local  
12 government, urban-county government, and consolidated local government police  
13 departments; university safety and security departments organized pursuant to KRS  
14 164.950; school districts that employ special law enforcement officers as defined in  
15 KRS 61.900; and sheriff's departments for the purchase of:

- 16 (a) Body armor for sworn peace officers of those departments and service  
17 animals, as defined in KRS 525.010, of those departments;
- 18 (b) Firearms or ammunition;
- 19 (c) Electronic control devices, electronic control weapons, or electro-muscular  
20 disruption technology; and
- 21 (d) Body-worn cameras.

22 In awarding grants under this section, the Kentucky Office of Homeland Security  
23 shall give first priority to providing and replacing body armor and second priority to  
24 providing firearms and ammunition, with residual funds available for the purchase  
25 of body-worn cameras, electronic control devices, electronic control weapons, or  
26 electro-muscular disruption technology. Body armor purchased by the department  
27 receiving grant funds shall meet or exceed the standards issued by the National

1 Institute of Justice for body armor. No police or sheriff's department shall apply for  
2 a grant to replace existing body armor unless that body armor has been in actual use  
3 for a period of five (5) years or longer. Any department applying for grant funds for  
4 body-worn cameras shall develop a policy for their use and shall submit that policy  
5 with its application for the grant funds to the Office of Homeland Security as part of  
6 the application process.

7 (6) The Department of Kentucky State Police may transfer a machine gun, short-  
8 barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any  
9 other weapon, or destructive device as defined by the National Firearms Act in 26  
10 U.S.C. sec. 5845 (f), which is subject to registration under the National Firearms  
11 Act, 26 U.S.C. ch. 53, and is not properly registered in the national firearms transfer  
12 records for those types of weapons, to the Bureau of Alcohol, Tobacco, ~~and~~  
13 ~~Firearms~~ and Explosives of the United States Department of Justice, after a  
14 reasonable attempt has been made to transfer the firearm to an eligible state or local  
15 law enforcement agency or to an eligible museum and no eligible recipient will take  
16 the firearm or weapon. National Firearms Act firearms and weapons which are  
17 properly registered and not returned to an innocent lawful owner or retained for  
18 official use as provided in this section shall be destroyed or sold in accordance with  
19 subsection (1) of this section.

20 (7) The commissioner or the commissioner's designee may order the destruction of  
21 any firearm confiscated by the Department of Kentucky State Police and not  
22 retained for official use, or any firearm coming into the custody of another law  
23 enforcement agency and transferred to the Department of Kentucky State Police  
24 for disposition as required by Section 2 of this Act, if it is determined that the  
25 firearm:

26 (a) Has been defaced so as to render illegible the serial number or other  
27 markings required by state or federal law to be placed on such firearm prior

- 1                   *to its sale by a licensed manufacturer or licensed importer;*  
2                   *(b) Is contaminated with a hazardous substance or biological materials, to an*  
3                   *extent that would make the firearm hazardous to health;*  
4                   *(c) Is unsafe to discharge in the manner for which it was designed, due to*  
5                   *damage or alteration; or*  
6                   *(d) Is subject to return to an innocent owner who has requested, in writing, that*  
7                   *the Department of Kentucky State Police destroy the firearm.*

8                   ➔Section 2. KRS 500.090 is amended to read as follows:

- 9                   (1) Except as provided in KRS 500.092, all property which is subject to forfeiture  
10                   under any section of the Kentucky Penal Code shall be disposed of in accordance  
11                   with this section.
- 12                   (a) Property other than firearms which is forfeited under any section of this code  
13                   may, upon order of the trial court, be destroyed by the sheriff of the county in  
14                   which the conviction was obtained.
- 15                   (b) Property other than firearms which is forfeited under any section of this code  
16                   may, upon order of the trial court, be sold at public auction. The expenses of  
17                   keeping and selling such property and the amount of all valid recorded liens  
18                   that are established by intervention as being bona fide shall be paid out of the  
19                   proceeds of the sale. The balance shall be paid to:
- 20                   1. The state, if the property was seized by an agency of the state or peace  
21                   officer thereof;
- 22                   2. The county, if the property was seized by the sheriff or an agency or  
23                   peace officer of the county;
- 24                   3. The Department of Fish and Wildlife Resources, if the property was  
25                   seized by a peace officer of the Department of Fish and Wildlife or was  
26                   seized by any other officer for violation of KRS Chapter 150;
- 27                   4. The city, if the property was seized by the city or by an agency or peace

1 officer thereof and the property was delivered to the city property clerk;

2 5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten  
3 percent (10%) of the proceeds), if the property was seized by the city or  
4 by an agency or peace officer thereof and the property was delivered to  
5 the sheriff or the county police; or

6 6. The state, if the property was seized by any combination of agencies  
7 listed above.

8 (c) 1. Subject to the duty to return confiscated firearms and ammunition to  
9 innocent owners pursuant to this section, all firearms and ammunition  
10 confiscated by a state or local law enforcement agency, all firearms  
11 ordered forfeited by a court, and all abandoned firearms and ammunition  
12 coming into the custody of a state or local law enforcement agency and  
13 not retained for official use shall be transferred to the Department of  
14 Kentucky State Police for disposition as provided by KRS 16.220,  
15 except as provided in paragraph (d) of this subsection.

16 2. a. The transfer shall occur not more than ninety (90) days after the  
17 abandonment of the firearm or ammunition to the law enforcement  
18 agency or not more than ninety (90) days after its confiscation,  
19 unless a court requires the firearm or ammunition for use as  
20 evidence, in which case it shall be transferred to the Department of  
21 Kentucky State Police not more than ninety (90) days following  
22 the order of forfeiture by the court or after the court returns the  
23 firearm or ammunition from use as evidence.

24 b. Firearms transferred to the Department of Kentucky State Police  
25 for disposition under this paragraph shall not be intentionally  
26 damaged, modified, or disabled by the agency having custody of  
27 the firearm, prior to the firearm transfer, except as may be

1                                    *necessary for forensic testing or examination in the course of*  
2                                    *criminal investigation or prosecution or civil proceedings.*

3            3. Prior to the *destruction or* sale of any firearm or ammunition, the law  
4            enforcement agency shall make a bona fide attempt to determine if the  
5            firearm or ammunition to be *destroyed or* sold has been stolen or  
6            otherwise unlawfully obtained from an innocent owner and return the  
7            firearm and ammunition to its lawful innocent owner, unless that person  
8            is ineligible to purchase a firearm under federal law.

9            4. This subsection relating to auction of firearms and ammunition shall not  
10           apply to firearms and ammunition auctioned by the Department of Fish  
11           and Wildlife that may be sold to individual purchasers residing in  
12           Kentucky who are eligible under federal law to purchase firearms and  
13           ammunition of the type auctioned.

14           (d) 1. *Subject to the duty to return confiscated firearms to innocent owners*  
15           *pursuant to this section, all firearms used in a homicide shall, upon*  
16           *order of the trial court, be destroyed by the agency having custody of*  
17           *the firearm.*

18           2. *The agency having custody of the firearm shall not retain the firearm*  
19           *for official use or transfer it to the Department of Kentucky State*  
20           *Police for disposition. The agency shall destroy the firearm not more*  
21           *than ninety (90) days after the court orders the destruction.*

22           (e) If property which is forfeited under any section of this code is determined by  
23           the trial court to be worthless, encumbered with liens in excess of its value, or  
24           otherwise a burdensome asset, the court may abandon any interest in such  
25           property. Property which is abandoned pursuant to this section shall be  
26           returned to the lawful claimant upon payment of expenses for keeping the  
27           property.

- 1       ~~(1)(e)~~     Property which is forfeited under any section of this code may, upon  
2                   order of the trial court, be retained for official use in the following manner.  
3                   Property which has been seized by an agency of the state may be retained for  
4                   official state use. Property which has been seized by an agency of county,  
5                   city, or urban-county government may be retained for official use by the  
6                   government whose agency seized the property or for official state use.  
7                   Property seized by any other unit of government may be retained only for  
8                   official state use. The expenses for keeping and transferring such property  
9                   shall be paid by the unit of government by which the property is retained.
- 10   (2) Money which has been obtained or conferred in violation of any section of this code  
11       shall, upon conviction, be forfeited for the use of the state. This subsection shall not  
12       apply when, during the course of the proceeding in which the conviction is  
13       obtained, the person from whom said money was unlawfully acquired is identified.
- 14   (3) Property forfeited under any section of this code shall be disposed of in accordance  
15       with this section only after being advertised pursuant to KRS Chapter 424. This  
16       subsection shall not apply to property which is designed and suitable only for  
17       criminal use or to money forfeited under subsection (2) of this section.
- 18   (4) The trial court shall remit the forfeiture of property when the lawful claimant:
- 19       (a) Asserts his or her claim before disposition of the property pursuant to this  
20            section;
- 21       (b) Establishes his or her legal interest in the property; and
- 22       (c) Establishes that the unlawful use of the property was without his or her  
23            knowledge and consent. This subsection shall not apply to a lienholder of  
24            record when the trial court elects to dispose of the property pursuant to  
25            subsection (1)(b) of this section.
- 26   (5) For purposes of this section, "lawful claimant" means owner or lienholder of record.
- 27   (6) Before property which has had its identity obscured in violation of KRS 514.120

1           may be sold or retained for official use as provided in this section, the court shall  
2           cause a serial or other identifying number to be placed thereon, and a record of the  
3           number assigned shall be placed in the court order authorizing the sale or retention  
4           of the property. This number shall be assigned, whenever applicable, in consultation  
5           with the Department of Kentucky State Police and any other state or federal  
6           regulatory agency. The purchaser of the property shall be given a document stating  
7           that the property had been forfeited pursuant to law and that a number, shown on  
8           the document, has been assigned which shall be deemed as compliance of the owner  
9           with KRS 514.120. When property is returned to an owner pursuant to this section  
10          and its identity has been obscured by another person in violation of KRS 514.120,  
11          the court shall provide a document to the owner relieving him or her of liability for  
12          its continued possession. This document shall serve as evidence of compliance with  
13          KRS 514.120 by the owner or any person to whom he or she lawfully disposes of  
14          the property. This section shall not apply to any person after property has been sold  
15          or returned in compliance with this section who violates the provisions of KRS  
16          514.120 with respect to that property.

17       (7) Before forfeiture of any property under this section, it shall be the duty of the trial  
18          court to determine if a lawful owner or claimant to the property has been identified  
19          or is identifiable. If a lawful owner or claimant has been identified or is identifiable,  
20          the court shall notify the owner or claimant that the property is being held and  
21          specify a reasonable period of time during which the claim may be made or may, in  
22          lieu thereof, order the return of the property to the lawful owner or claimant. If the  
23          lawful owner or claimant does not assert his or her claim to the property after  
24          notification or if he or she renounces his or her claim to the property, the property  
25          shall be disposed of as provided in this section. It shall be the duty of all peace  
26          officers and other public officers or officials having knowledge of the lawful owner  
27          or claimant of property subject to forfeiture to report the same to the trial court



1 before the act of forfeiture occurs.

2 ➔Section 3. KRS 15.440 is amended to read as follows:

- 3 (1) Each unit of government that meets the following requirements shall be eligible to  
4 share in the distribution of funds from the Law Enforcement Foundation Program  
5 fund:
- 6 (a) Employs one (1) or more police officers;
  - 7 (b) Pays every police officer at least the minimum federal wage;
  - 8 (c) Requires all police officers to have, at a minimum, a high school degree, or its  
9 equivalent as determined by the council, except that each police officer  
10 employed prior to the date on which the officer's police department was  
11 included as a participant under KRS 15.410 to 15.510 shall be deemed to have  
12 met the requirements of this subsection;
  - 13 (d) 1. Requires all police officers to successfully complete a basic training  
14 course of nine hundred twenty-eight (928) hours' duration within one (1)  
15 year of the date of employment at a school certified or recognized by the  
16 council, which may provide a different number of hours of instruction as  
17 established in this paragraph, except that each police officer employed  
18 prior to the date on which the officer's police department was included  
19 as a participant under KRS 15.410 to 15.510 shall be deemed to have  
20 met the requirements of this subsection.
  - 21 2. As the exclusive method by which the number of hours required for  
22 basic training courses shall be modified from that which is specifically  
23 established by this paragraph, the council may, by the promulgation of  
24 administrative regulations in accordance with the provisions of KRS  
25 Chapter 13A, explicitly set the exact number of hours for basic training  
26 at a number different from nine hundred twenty-eight (928) hours based  
27 upon a training curriculum approved by the Kentucky Law Enforcement

- 1 Council as determined by a validated job task analysis.
- 2 3. If the council sets an exact number of hours different from nine hundred  
3 twenty-eight (928) in an administrative regulation as provided by this  
4 paragraph, it shall not further change the number of hours required for  
5 basic training without promulgating administrative regulations in  
6 accordance with the provisions of KRS Chapter 13A.
- 7 4. Nothing in this paragraph shall be interpreted to prevent the council,  
8 pursuant to its authority under KRS 15.330, from approving training  
9 schools with a curriculum requiring attendance of a number of hours  
10 that exceeds nine hundred twenty-eight (928) hours or the number of  
11 hours established in an administrative regulation as provided by  
12 subparagraphs 2. and 3. of this paragraph. However, the training  
13 programs and schools for the basic training of law enforcement  
14 personnel conducted by the department pursuant to KRS 15A.070 shall  
15 not contain a curriculum that requires attendance of a number of hours  
16 for basic training that is different from nine hundred twenty-eight (928)  
17 hours or the number of hours established in an administrative regulation  
18 promulgated by the council pursuant to the provisions of KRS Chapter  
19 13A as provided by subparagraphs 2. and 3. of this paragraph.
- 20 5. KRS 15.400 and 15.404(1) and subparagraphs 1. to 4. of this paragraph  
21 to the contrary notwithstanding, the council may, through the  
22 promulgation of administrative regulations in accordance with KRS  
23 Chapter 13A, approve basic training credit for:
- 24 a. Years of service credit as a law enforcement officer with previous  
25 service in another state; and
- 26 b. Basic training completed in another state.
- 27 6. KRS 15.400 and 15.404(1) and subparagraphs 1. to 4. of this paragraph

- 1 to the contrary notwithstanding, the council may, through the  
2 promulgation of administrative regulations in accordance with KRS  
3 Chapter 13A, approve basic training credit for:
- 4 a. Completion of eight hundred forty-eight (848) hours of training at  
5 a school established pursuant to KRS 15A.070;
  - 6 b. A minimum of fifteen (15) years of experience as a certified law  
7 enforcement instructor at a school established pursuant to KRS  
8 15A.070;
  - 9 c. Completion of an average of forty (40) hours of Kentucky Law  
10 Enforcement Council approved in-service training annually from  
11 January 1, 1997, through January 1, 2020;
  - 12 d. Three (3) years of active, full-time service as a:
    - 13 i. City, county, urban-county, charter county, consolidated  
14 local, or unified local government police officer;
    - 15 ii. Sheriff's deputy, excluding special deputies appointed under  
16 KRS 70.045;
    - 17 iii. Department of Kentucky State Police officer; or
    - 18 iv. Kentucky Department of Fish and Wildlife Resources game  
19 warden exercising peace officer powers under KRS 150.090;  
20 and
  - 21 e. Completion of the:
    - 22 i. Twenty-four (24) hour legal update Penal Code course;
    - 23 ii. Sixteen (16) hour legal update constitutional procedure  
24 course; and
    - 25 iii. Forty (40) hour basic officer skills course within one (1) year  
26 prior to applying for certification;
  - 27 (e) Requires all police officers to successfully complete each calendar year an in-

1 service training course, appropriate to the officer's rank and responsibility and  
2 the size and location of the officer's police department, of forty (40) hours'  
3 duration, at a school certified or recognized by the council which may include  
4 a four (4) hour course which meets the requirements of paragraph (j) of this  
5 subsection. This in-service training requirement shall be waived for the period  
6 of time that a peace officer is serving on active duty in the United States  
7 Armed Forces. This waiver shall be retroactive for peace officers from the  
8 date of September 11, 2001;

9 (f) Complies with all provisions of law applicable to police officers or police  
10 departments, including transmission of data to the centralized criminal history  
11 record information system as required by KRS 17.150 and transmission of  
12 reports as required by KRS 15.391;

13 (g) Complies with all rules and regulations, appropriate to the size and location of  
14 the police department issued by the cabinet to facilitate the administration of  
15 the fund and further the purposes of KRS 15.410 to 15.510;

16 (h) Possesses a written policy and procedures manual related to domestic violence  
17 for law enforcement agencies that has been approved by the cabinet. The  
18 policy shall comply with the provisions of KRS 403.715 to 403.785. The  
19 policy shall include a purpose statement; definitions; supervisory  
20 responsibilities; procedures for twenty-four (24) hour access to protective  
21 orders; procedures for enforcement of court orders or relief when protective  
22 orders are violated; procedures for timely and contemporaneous reporting of  
23 adult abuse and domestic violence to the Cabinet for Health and Family  
24 Services, Department for Community Based Services; victim rights,  
25 assistance, and service responsibilities; and duties related to timely  
26 completion of records;

27 (i) Possesses by January 1, 2023, a written policy and procedures manual related

- 1 to sexual assault examinations that meets the standards provided by, and has  
2 been approved by, the cabinet, and which includes:
- 3 1. A requirement that evidence collected as a result of an examination  
4 performed under KRS 216B.400 be taken into custody within five (5)  
5 days of notice from the collecting facility that the evidence is available  
6 for retrieval;
  - 7 2. A requirement that evidence received from a collecting facility relating  
8 to an incident which occurred outside the jurisdiction of the police  
9 department be transmitted to a police department with jurisdiction  
10 within ten (10) days of its receipt by the police department;
  - 11 3. A requirement that all evidence retrieved from a collecting facility under  
12 this paragraph be transmitted to the Department of Kentucky State  
13 Police forensic laboratory within thirty (30) days of its receipt by the  
14 police department;
  - 15 4. A requirement that a suspect standard, if available, be transmitted to the  
16 Department of Kentucky State Police forensic laboratory with the  
17 evidence received from a collecting facility;
  - 18 5. A process for notifying the victim from whom the evidence was  
19 collected of the progress of the testing, whether the testing resulted in a  
20 match to other DNA samples, and if the evidence is to be destroyed. The  
21 policy may include provisions for delaying notice until a suspect is  
22 apprehended or the office of the Commonwealth's attorney consents to  
23 the notification, but shall not automatically require the disclosure of the  
24 identity of any person to whom the evidence matched; and
  - 25 6. A requirement that DNA samples collected as a result of an examination  
26 performed under KRS 216B.400 that are voluntarily submitted solely for  
27 elimination purposes shall not be checked against any DNA index,

- 1 retained, or included in any DNA index;~~and~~
- 2 (j) Possesses by January 1, 2026, a written policy and procedures manual  
3 related to destruction of firearms used in homicides, which includes a  
4 requirement that all firearms used in a homicide are destroyed in a manner  
5 which deems the firearm inoperable and disposed of in a manner so that no  
6 parts of the firearm are functional; and
- 7 (k) Requires all police officers to successfully complete by December 31, 2022,  
8 and every two (2) years thereafter, a training course certified by the council of  
9 not less than four (4) hours in emergency vehicle operation.
- 10 (2) A unit of government which meets the criteria of this section shall be eligible to  
11 continue sharing in the distribution of funds from the Law Enforcement Foundation  
12 Program fund only if the police department of the unit of government remains in  
13 compliance with the requirements of this section.
- 14 (3) Deputies employed by a sheriff's office shall be eligible to participate in the  
15 distribution of funds from the Law Enforcement Foundation Program fund  
16 regardless of participation by the sheriff.
- 17 (4) Failure to meet a deadline established in a policy adopted pursuant to subsection  
18 (1)(i) of this section for the retrieval or submission of evidence shall not be a basis  
19 for a dismissal of a criminal action or a bar to the admissibility of the evidence in a  
20 criminal action.