

Appendix 1

Kentucky Domestic Violence Laws

30A.410 When Interpreter Shall be Provided – Removal.

- (1) The court in any matter, criminal or civil, shall appoint a qualified interpreter or interpreters, to be paid out of the State Treasury, for the following categories of persons, whether they are parties, jurors, or witnesses:
 - (a) Persons who because of deafness or hard of hearing:
 1. Use sign language, such as pidgin, signed English, American Sign Language, or gestures; or
 2. Are oral/aural and use interpreters and assistive technology as their primary mode of communication;
 - (b) Persons who cannot communicate in English; and
 - (c) Any other person who has, in the opinion of the court, another type of disability which will prevent him from properly understanding the nature of the proceedings or substantially prejudice his rights.
- (2) upon request of the person for whom the interpreter is appointed, or on the court's own motion, an interpreter may be removed for inability to communicate with the person, if it for reasonable cause another interpreter is so desired by the person for whom the interpreter is appointed, or because the services of an interpreter are not desired by the person.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 452, sec. 3, effective July 15, 1994. – Amended 1992 Ky. Acts ch. 144, sec. 7, effective July 14, 1992 – Created 1976 (1st Extyra. Sess.) Ky. Acts ch. 22, sec. 66, effective January 2, 1978.

403.715 Interpretation of KRS 403.715 to 403.785 by court.

KRS 403.715 to 403.785 shall be interpreted by the courts of the Commonwealth of Kentucky to effectuate the following express legislative purposes:

- (1) To allow persons who are victims of domestic violence and abuse to obtain effective, short-term protection against further violence and abuse in order that their lives will be as secure and as uninterrupted as possible;
- (2) To expand the ability of law enforcement officers to effectively respond to situations involving domestic violence and abuse so as to prevent further such incidents and to provide assistance to the victims;
- (3) To provide peace officers with the authority to immediately apprehend and charge for violation of a protective order any person whom the officer has probable cause to believe has violated an order of protection issued under KRS 403.740 or 403.750 and to provide courts with the authority to conduct contempt of court proceedings for these violations;
- (4) To provide for the collection of data concerning incidents of domestic violence and abuse in order to develop a comprehensive analysis of the incidence and causes of such violence and abuse; and
- (5) Nothing in KRS 403.715 to 403.785 shall be interpreted to repeal or supplant any duties, responsibilities, services, or penalties under KRS Chapters 209 or 620.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 172, sec. 1.

403.720 Definitions for KRS 403.715 to 403.785.

As used in KRS 403.715 to 403.785:

- (1) "Domestic violence and abuse" means physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple;
- (2) "Family member" means a spouse, including a former spouse, a parent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree; and
- (3) "Member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 172, sec. 2.

403.725 Petition, who may file; protective orders

- (1) Any family member or member of an unmarried couple who is a resident of this state or has fled to this state to escape domestic violence and abuse may file a verified petition in the District Court of the county in which he resides. If the petitioner has left his usual place of residence within this state in order to avoid domestic violence and abuse, the petition may be filed and proceedings held in the District Court in the county of his usual residence or in the District Court in the county of current residence. Any family member or member of an unmarried couple who files a petition for an emergency protective order in District or Circuit Court shall make known to the court any custody or divorce actions, involving both the petitioner and the respondent, that are pending in any Circuit Court in the Commonwealth. The petition shall also include the name of the court where filed.
- (2) Any family member or any member of an unmarried couple, as those terms are defined in KRS 403.720, may file for and receive protection under KRS 403.715 to 403.785, notwithstanding the existence of or intent to file an action in the Circuit Court by either party under the provisions of this chapter.
- (3) A petition filed pursuant to subsection (1) of this section may be filed by the family member or member of an unmarried couple seeking relief or by an adult family member or member of an unmarried couple on behalf of a minor family member.
- (4) If a family member files an action for dissolution of marriage or child custody in Circuit Court, the Circuit Court shall have jurisdiction to issue a protective order upon the filing of a verified motion therein either at the commencement or during the pendency of the action in Circuit Court pursuant to the provisions of KRS 403.730 to 403.785.
- (5) No Circuit or District Court shall require mediation, conciliation, or counseling prior to or as a condition of issuing an emergency protective order or domestic violence order.
- (6) When the elected, appointed, or special judge of the district is absent from the

district, otherwise unavailable, or unable to act, any Circuit Judge shall have the authority to issue an emergency protective order pursuant to KRS 403.730 to 403.785. If a Circuit Judge issues an emergency protective order, except as otherwise provided in this section, that judge shall conduct the hearing as required by KRS 403.745 and any order issued shall be enforced as provided in this chapter. (7) During any hearing in Circuit Court on dissolution of marriage, child custody, or visitation, at which both parties are present or represented by counsel, the Circuit Judge shall have the authority to issue a protective order pursuant to KRS 403.750 to 403.785.

(8) Following the issuance of a protective order under this section, if the judge who issued the order is absent from the district, otherwise unavailable, or unable to conduct proceedings regarding the enforcement, violation, or modification of the order within a reasonable time, the proceedings shall be conducted by any District or Circuit Judge.

Effective: July 15, 1996

History: 1998 c 99, sec. 1, eff. 7-15-96; 1992 c 172, sec.3, c414, sec. 4, eff. 7-14-92; 1984 c 152, sec.3.

403.730 Petition -- Contents -- Form -- Filing fee.

- (1) A petition filed pursuant to KRS 403.725 shall be verified and shall contain:
 - (a) The name, age, address, occupation, and residence of the petitioner;
 - (b) The name, age, address, occupation, and residence of the person or persons who have engaged in the alleged act or acts of domestic violence and abuse;
 - (c) The facts and circumstances which constituted the alleged domestic violence and abuse;
 - (d) The date and place of the marriage of the parties, if applicable; and
 - (e) The names, ages, and addresses of the parties' minor children, if applicable.
- (2) The petition shall be filed on forms prescribed by the Administrative Office of the Courts and provided to the person seeking relief under KRS 403.715 to 403.785 by the circuit clerk or to another individual authorized by the court to provide and verify petitions in emergency situations, such as law enforcement officers, and county or Commonwealth's attorneys. All petitions requested, completed, and signed by persons seeking protection under the provisions of KRS 403.715 to 403.785 shall be accepted and filed.
- (3) Notwithstanding any provision of law to the contrary, no filing fee or court costs shall be assessed against the petitioner in connection with filing a petition under KRS 403.725.

Effective: July 14, 1992

History: 1992 c 172, sec.4, eff. 7-14-92; 1984 c152, sec. 4.

403.735 Review by court -- Access to emergency protective orders -- Local protocol in domestic violence matters -- Time at which orders of protection take effect.

- (1) Upon the filing of a petition, as provided for in KRS 403.725, the court, after review of the petition and determining that domestic violence and abuse exists, without a jury, shall utilize one (1) of the alternatives provided for in KRS 403.740 or 403.745.
- (2) A court may issue mutual protective orders only if a separate petition is filed by the

respondent. Pursuant to KRS 403.740 and 403.750, the court shall then provide orders, sufficiently specific to apprise any peace officer as to which party has violated the order if there is probable cause to believe a violation of the order has occurred.

- (3) (a) All courts shall provide twenty-four (24) hour access to emergency protective orders.
 - (b) Each court shall submit written procedures for twenty-four (24) hour accessibility to be reviewed and approved by the Kentucky Supreme Court.
 - (c) Each court shall establish the local protocol in domestic violence matters in which there may be joint jurisdiction between District and Circuit Court. Each court shall submit the written procedures to be reviewed and approved by the Kentucky Supreme Court.
 - (d) All amendments or revisions to the local procedures required pursuant to this section shall be submitted to the Kentucky Supreme Court for review and approval.
- (4) If an emergency protective order is not issued, the court shall note on the petition, for the record, any action taken or denied and the reason for it.
 - (5) An order of protection issued under the provisions of KRS 403.715 to 403.785 shall become effective and binding on the respondent at the time of personal service or when the respondent is given notice of the existence and terms of the order by a peace officer or the court, whichever is earlier. After notice of the existence and terms of the order is given to the respondent, a peace officer or the court may enforce the terms of the order, and act immediately upon any violation of the order. After notice of the order, all reasonable efforts shall be made by the peace officer or the court to arrange for personal service of the order upon the respondent.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 99, sec. 14, effective July 15, 1996. --

Amended 1992 Ky. Acts ch. 172, sec. 5.

403.737 Forms for documents entered into Law Information Network of Kentucky.

All forms, affidavits, emergency protective orders, domestic violence orders, orders amending an existing protective order, or other orders issued pursuant to KRS 403.715 to 403.785, or the laws of another jurisdiction which are entitled to full faith and credit in Kentucky pursuant to the provisions of 18 U.S.C. sec. 2265, which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts after consultation with the Justice Cabinet.

If the provisions of a protective order are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 99, sec. 3, effective July 15, 1996.

403.740 Emergency protective order.

- (1) If, upon review of the petition, as provided for in KRS 403.735, the court determines that the allegations contained therein indicate the presence of an immediate and present danger of domestic violence and abuse, the court shall issue, upon proper motion, ex parte, an emergency protective order:

- (a) Restraining the adverse party from any contact or communication with the petitioner except as directed by the court;
 - (b) Restraining the adverse party from committing further acts of domestic violence and abuse;
 - (c) Restraining the adverse party from disposing of or damaging any of the property of the parties;
 - (d) Directing the adverse party to vacate the residence shared by the parties to the action;
 - (e) Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.420, grant temporary custody; or
 - (f) Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse; or any combination thereof.
- (2) Except as provided in KRS 403.036, if the court issues an emergency protective order pursuant to subsection (1) of this section, the court shall not order or refer the parties to mediation for resolution of the issues alleged in the petition filed pursuant to KRS 403.735.
 - (3) An emergency protective order issued in accordance with this section shall be issued without bond being required of the petitioner.
 - (4) An emergency protective order issued in accordance with this section shall be effective for a period of time fixed in the order, but not to exceed fourteen (14) days. Upon the issuance of an emergency protective order, a date for a full hearing, as provided for in KRS 403.745, shall be fixed not later than the expiration date of the emergency protective order. An emergency protective order shall be reissued for a period not to exceed fourteen (14) days if service has not been made on the adverse party by the fixed court date and time or as the court determines is necessary for the protection of the petitioner.
 - (5) The adverse party shall be personally served with a copy of the emergency protective order, a copy of the notice setting the full hearing, and a copy of the petition. Service may be made in the manner and by the persons authorized to serve subpoenas under the provisions of Rule 45.03 of the Rules of Civil Procedure. No service fee shall be assessed to the petitioner.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 99, sec. 16, effective July 15, 1996. --

Amended 1992 Ky. Acts ch. 172, sec. 6.

403.745 Hearing.

- (1) If, upon review of the petition as provided for in KRS 403.735, the court determines that the allegations contained therein do not indicate the presence of an immediate and present danger of domestic violence and abuse, the court shall fix a date, time, and place for a hearing and shall cause a summons to be issued for the adverse party.
- (2) The hearing shall be fixed not later than fourteen (14) days following the issuance of the summons.
- (3) The summons, together with a copy of the order fixing the date of the hearing and a copy of the petition shall be personally served upon the adverse party. Service may be made in the manner and by the persons authorized to serve subpoenas under the provisions of Rule 45.03 of the Rules of Civil Procedure.

(4) A summons may be reissued if service has not been made on the adverse party by the fixed court date and time.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 172, sec. 7.

403.750 Court orders -- Amendment.

- (1) Following the hearing provided for under KRS 403.740 and 403.745, the court, if it finds from a preponderance of the evidence that an act or acts of domestic violence and abuse have occurred and may again occur, may:
 - (a) Restrain the adverse party from any contact or communication with the petitioner except as directed by the court;
 - (b) Restrain the adverse party from committing further acts of domestic violence and abuse;
 - (c) Restrain the adverse party from disposing of or damaging any of the property of the parties;
 - (d) Direct the adverse party to vacate the residence shared by the parties to the action;
 - (e) Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.420, award temporary custody;
 - (f) Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213, award temporary support;
 - (g) Direct that either or both parties receive counseling services available in the community, except that the court shall not order or refer the parties to participate in mediation for resolution of the issues alleged in the petition filed pursuant to KRS 403.715 to 403.785; or
 - (h) Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse.
- (2) Any order entered pursuant to this section shall be effective for a period of time, fixed by the court, not to exceed three (3) years and may be reissued upon expiration for an additional period of up to three (3) years. The number of times an order may be reissued shall not be limited. With respect to whether an order should be reissued, any party may present to the court testimony relating to the importance of the fact that acts of domestic violence or abuse have not occurred during the pendency of the order.
- (3) Upon proper filing of a motion, either party may seek to amend a domestic violence order.
- (4) When temporary child support is granted under the provisions of this section, the court shall enter an order detailing how the child support is to be paid and collected. The enforcement procedures for child support orders, entered pursuant to KRS 403.211, 403.212, and 403.213, including but not limited to 403.215, shall be available to temporary child support orders issued under KRS 403.715 to 403.785.
- (5) Any order entered pursuant to this section restraining a party or parties to an action shall be issued without bond being required of the petitioner.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 99, sec. 2, effective July 15, 1996. --

Amended 1992 Ky. Acts ch. 172, sec. 8.

403.7505 Certification standards for mental health professionals providing court-mandated treatment -- List of certified providers to Administrative Office of the Courts -- Distribution of compiled data.

- (1) The Cabinet for Human Resources shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish certification standards for mental health professionals providing court-mandated treatment services for domestic violence offenders.
- (2) The standards created by the cabinet shall be based on the following principles:
 - (a) Domestic violence is a pattern of coercive control which includes physical, sexual, psychological, and environmental abuse, and is considered to be criminal conduct;
 - (b) The primary goal of treatment programs for domestic violence offenders shall be the cessation of violence which will provide for the safety of victims and their children; and
 - (c) Domestic violence offenders are responsible and shall be held accountable for the violence which they choose to perpetrate.
- (3) The standards created by the cabinet shall address the following:
 - (a) Qualifications of providers of court-mandated domestic violence offender treatment services which shall include appropriate requirements for degree, experience, training, and continuing education;
 - (b) Procedures for application by providers to receive certification which shall include methods of appeal if certification is denied, and sanctions for noncompliance with the standards which may include revocation of certification;
 - (c) Admittance and discharge criteria for domestic violence offenders to enter court-mandated treatment services provided pursuant to this section;
 - (d) Written protocols for referral by a court to certified providers and for progress reports to be made to the court by providers;
 - (e) Contracts for domestic violence offenders to sign prior to entering court-ordered treatment services provided pursuant to this section. The contract shall specify that certified providers may contact the victims of the offender if the victim chooses to be contacted. The contract shall authorize the provider to release information regarding the offender's progress in treatment to the court, victims, probation and parole officers, and other individuals authorized by the court to receive the information;
 - (f) Written procedures in compliance with KRS 202A.400, 209.030, and 620.030;
 - (g) Payment protocols which require the offender to pay the actual cost for any court-mandated evaluation or treatment pursuant to this section, subject to the offender's ability to pay; and
 - (h) Other provisions which shall further the availability and quality of court-mandated domestic violence offender services.
- (4) The cabinet shall:
 - (a) Maintain a list of providers certified pursuant to this section and regularly submit the list to the Administrative Office of the Courts; and
 - (b) Collect data from certified providers, which shall include the number of domestic violence offenders served by the certified providers, to be compiled annually and submitted to the Governor, the Chief Justice of the Kentucky Supreme Court, and

the Legislative Research Commission.

(5) No person, association, or organization shall conduct, operate, maintain, advise, or advertise any program that provides court-ordered treatment services for domestic violence offenders without first obtaining or maintaining valid certification under this chapter. If the cabinet has cause to believe that court-ordered treatment services for domestic violence offenders are being provided by a person or entity that does not possess valid certification under this chapter, the cabinet may institute proceedings, in the Circuit Court of the county in which the person or entity is located or in Franklin Circuit Court, for injunctive relief to terminate the provision of those services.

Effective July 14, 2000.

History: 2000- c 317, sec. 4; 1998 c 426 sec. 581, eff. 7/15/98; 1996 c 54, sec. 1, eff. 7-15-96

403.751 Statement to assist out-of-state court in determining whether protective order is entitled to full faith and credit.

In order to assist a court of another state in determining whether a protective order issued in this state is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265, all protective orders issued pursuant to KRS 403.715 to 403.785 shall include a statement certifying that the issuing court had jurisdiction over the parties and the matter, and that reasonable notice and opportunity to be heard has been given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte emergency protective orders issued pursuant to KRS 403.740, the statement shall certify that notice and opportunity to be heard has been provided within the time required by state law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights. The Administrative Office of the Courts shall prescribe the form to be used for this purpose.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 99, sec. 13, effective July 15, 1996.

403.7521 Foreign protective orders -- Filing -- Affidavit certifying validity -- Uncertified orders.

- (1) In KRS 403.715 to 403.785, "foreign protective order" means any judgment, decree, or order of protection issued by a court of a state of the United States or of any other court which is entitled to full faith and credit in this state pursuant to 18 U.S.C. sec. 2265.
- (2) A copy of any foreign protective order entitled to full faith and credit in this state in accordance with the act of Congress or the statutes of this state may be filed in the office of the clerk of any court of competent jurisdiction of this state. A foreign protective order so filed shall have the same effect and shall be enforced in the same manner as an emergency protective order issued by a court of this state.
- (3) (a) At the time of the filing of the foreign protective order, the person filing the order shall file with the clerk of the court an affidavit on a form prescribed and provided by the Administrative Office of the Courts. The affidavit shall set forth the name, city, county, and state or other jurisdiction of the issuing court. The person shall certify in the affidavit the validity and status of the foreign protective order, and attest to the person's belief that the order has not been

amended, rescinded, or superseded by any orders from a court of competent jurisdiction. All foreign protective orders presented with a completed and signed affidavit shall be accepted and filed. Knowingly making a false statement in an affidavit required by this subsection shall be a violation of KRS 523.030.

- (b) The affidavit signed by the applicant shall have space where the reviewing judge shall place information necessary to allow the order's entry into the Law Information Network of Kentucky in the same manner as a Kentucky order.
- (4) (a) If the person seeking to file the order presents a copy of the foreign order which is current by the terms of the order and has been certified by the clerk or other authorized officer of the court which issued it, the circuit clerk shall present it to the District Judge or Circuit Judge, who shall read the order and enter on the affidavit the information necessary to allow the order's entry into the Law Information Network of Kentucky. The order shall not be subject to further verification and shall be accepted as authentic, current, and subject to full faith and credit.
- (b) If the order presented is current by the terms of the order but is not certified in the manner specified in paragraph (a) of this subsection, the circuit clerk shall present the order and the affidavit to the District or Circuit Judge, who shall read the order and enter on the affidavit the information necessary to allow the order's entry into the Law Information Network of Kentucky. The order shall be subject to full faith and credit in the same manner as a Kentucky emergency protective order but shall be subject to verification by the circuit clerk. The order shall be valid for a period of fourteen (14) days and may be renewed once for a period of fourteen (14) days if the circuit clerk has not received a certified copy of the order from the issuing jurisdiction. The clerk shall treat the foreign protective order in the same manner as an emergency protective order of this state issued pursuant to KRS 403.740, except that no service on the adverse party shall be required pursuant to 18 U.S.C. sec. 2265.
 - (c) Upon the filing of an uncertified protective order the circuit clerk shall, within two (2) business days, contact the issuing court to request a certified copy of the order. If the certified copy of the order is received by the circuit clerk within the initial fourteen (14) day period, the clerk shall cause the information that certification has been received to be entered into the Law Information Network of Kentucky and shall notify the applicant for the order of the fact of its certification. A facsimile copy of a certified foreign order shall be grounds for the issuance of a domestic violence order.
 - (d) If the clerk has not received a certified copy of the foreign order within ten (10) days, the clerk shall notify the court and the applicant that the order has not been received. The notice to the applicant, on a form prepared by the Administrative Office of the Courts, shall state that the order will be extended for another fourteen (14) days, but will be dismissed at that time. If the clerk informs the judge in writing that the certified foreign order has been requested but has not yet been received, the judge shall extend the emergency protective order for a period of fourteen (14) days. If certification of the foreign order is not received within twenty-eight (28) days, the emergency protective order shall expire and shall not be reissued.

If the applicant meets the qualifications for the issuance of a Kentucky emergency protective order or a Kentucky domestic violence order, the court may, upon proper application and showing of evidence, be issued a Kentucky order in accordance with the provisions of KRS 403.715 to 403.785.

- (5) Notwithstanding any provision to the contrary, a person filing a foreign protective order shall not be required to pay a fee or other costs in conjunction with the filing or other matters associated with the authentication of the order.
- (6) The right of a person filing a foreign protective order to bring an action to enforce the order instead of proceeding under KRS 403.715 to 403.785 remains unimpaired.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 99, sec. 4, effective July 15, 1996.

403.7524 Authentication of foreign protective orders.

- (1) Upon ex parte review of the foreign protective order and the affidavit filed pursuant to KRS 403.725, and after determining the order is entitled to full faith and credit in this Commonwealth pursuant to 18 U.S.C. sec. 2265, the court shall declare the order to be authenticated and record the finding on the affidavit.
- (2) If the court declares the order to be authenticated, the court shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with, if applicable.
- (3) If the court declares the order to be authenticated, the court shall order its enforcement in any county of the Commonwealth in the same manner as a domestic violence order of this state issued pursuant to KRS 403.7521. Officers acting in good faith shall be immune from criminal and civil liability.
- (4) The clerk shall notify the person who filed the foreign protective order of the decision of the court and provide the person a certified copy of the affidavit declaring the authentication of the order.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 99, sec. 5, effective July 15, 1996.

Legislative Research Commission Note (7/15/96). The KRS references contained in subsections (1) and (3) of this statute have been codified as those references were enacted in 1996 Ky. Acts ch. 99 (Senate Bill 105), sec. 5, but it appears that these statute references may be erroneous. Subsection (1) contained a reference to Section 1 of the Act (KRS 403.725), but from context it appears that Section 4 of the Act (KRS 403.7521) may have been intended; subsection (4) contained a reference to Section 4 of the Act (KRS 403.7521), but from context it appears that Section 2 of the Act (KRS 403.750) may have been intended.

403.7527 Enforcement of foreign protective orders.

A court of this state shall enforce a foreign protective order authenticated pursuant to KRS 403.737, 403.7521, and 403.7524, including an order which grants relief to a person who is not eligible for a protective order in this state. A court of this state shall enforce all provisions of a foreign protective order including provisions which grant relief that is not available in this state. Any foreign protective order that has been properly authenticated and that comes within the purview of KRS 403.7524 shall be effective for the period of time fixed by the issuing court.

Effective: July 15, 1998

History: 1998 c 606, sec. 189, eff. 7-15-98; 1996 c 99, sec. 6, eff. 7-15-96.

403.7529 Presumption of validity -- Enforcement by peace officers.

- (1) All foreign protective orders shall have the rebuttable presumption of validity. The validity of a foreign protective order shall only be determined by a court of competent jurisdiction. Until a foreign protective order is declared to be invalid by a court of competent jurisdiction, it shall be given full faith and credit by all peace officers and courts in the Commonwealth.
- (2) All peace officers shall treat a foreign protective order as a legal document, valid in Kentucky, and shall make arrests for a violation thereof in the same manner as for a violation of an emergency protective order or domestic violence order issued in Kentucky.
- (3) The fact that a foreign protective order has not been entered into the Law Information Network of Kentucky shall not be grounds for a peace officer not to enforce the provisions of the order unless it is readily apparent to the peace officer to whom the order is presented that the order has either expired according to a date shown on the order, or that the order's provisions clearly do not prohibit the conduct being complained of. Officers acting in good faith shall be immune from criminal and civil liability.
- (4) In the event that the order has expired or its provisions do not prohibit the conduct being complained of, the officer shall not make an arrest unless the provisions of a Kentucky statute have been violated, in which case the peace officer shall take the action required by Kentucky law.

Effective: July 15, 1998

History: 1998 c 606, sec. 190, eff. 7-15-98; 1996 c. 99, sec. 7, eff. 7-15-96.

403.7531 Clearing of foreign protective orders from Law Information Network of Kentucky.

A foreign protective order which has been entered into the Law Information Network of Kentucky shall be forthwith cleared as an active record from the computer system when:

- (1) The order expires according to the terms contained therein;
- (2) A Kentucky court notifies the Law Information Network of Kentucky that a foreign protective order has been dismissed, either by court order or entry of notification by a circuit clerk; or
- (3) A circuit clerk notifies the Law Information Network of Kentucky that a foreign protective order tendered to the clerk has not been authenticated in the time period specified in KRS 403.7521.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 99, sec. 8, effective July 15, 1996.

403.7535 Changes in orders -- Notification.

- (1) A person who has tendered a foreign protective order to a court in Kentucky is under a continuing obligation to inform the court to which the foreign protective order was tendered of any expiration of the order, vacation of the order, modification of the provisions of the order, or other change in the order which the person tendering the

order has received from the issuing foreign court.

- (2) A person who has tendered a foreign protective order to a court in Kentucky shall, within two (2) working days of the happening of any event specified in subsection (1) of this section, notify the clerk of the court in which the foreign protective order was tendered of the fact of the changed order and present the clerk with a copy of the order for authentication as provided in KRS 403.7521 or 403.7524. The clerk shall forthwith notify the Law Information Network of Kentucky entering agency of the modification.
- (3) No court in Kentucky and no peace officer in Kentucky shall be expected to enforce a provision of a foreign protective order which has been the subject of any action specified in subsection (1) of this section unless proper notice has been given in accordance with the provisions of this section.
- (4) Intentional failure of a person who has tendered a foreign protective order to make the notifications required by this section in the manner required by this section shall constitute contempt of court and may be grounds for an appropriate civil action brought by any person damaged by the intentional act of omission by the person failing to act.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 99, sec. 9, effective July 15, 1996.

403.7539 Civil and criminal proceedings for violations of foreign protective orders.

- (1) Civil proceedings and criminal proceedings for violation of a foreign protective order for the same violation of the protective order shall be mutually exclusive. Once either proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.
- (2) If criminal proceedings for violation of a foreign protective order are undertaken, the following shall apply:
 - (a) A person is guilty of violation of a foreign protective order when the person intentionally violates the provisions of a foreign protective order properly authenticated, or filed and awaiting authentication, pursuant to KRS 403.7521 and 403.7524.
 - (b) Violation of a foreign protective order is a violation of KRS 403.763.
- (3) If civil proceedings for violation of a foreign protective order are undertaken, intentional violation of the foreign protective order by the person against whom it was issued shall constitute contempt of court.

Effective: July 15, 1998

History: 1998 c. 606, sec. 191, eff. 7-15-98; 1996 c 99, sec. 10, eff. 7-15-96.

403.755 Enforcement by law enforcement agency.

- (1) Upon the issuance of an order authorized by KRS 403.740 or 403.750, the court shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with.
- (2) Orders issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order or an order following a hearing, shall be enforced in any county of the Commonwealth. Officers acting in good faith shall be immune from criminal and civil liability.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 172, sec. 9.

403.760 Contempt of court.

- (1) Violation of the terms or conditions of an order issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order, or an order following hearing, after service of the order on the respondent, or notice of the order to the respondent, shall constitute contempt of court.
- (2) Any peace officer having probable cause to believe a violation has occurred of an order issued under the provisions of KRS 403.740 or 403.750, whether an emergency protective order or an order following a hearing, and after service on the respondent or notice to the respondent as provided under KRS 403.735, shall arrest the respondent without a warrant for violation of a protective order pursuant to KRS 500.020, 403.715, and 403.740. Following a hearing the District Court in the county in which the peace officer made the arrest for the violation may punish the violation of a protective order as a violation of a protective order.
- (3) Court proceedings for contempt of court, under KRS 403.715 to 403.785, shall be held in the county where the order, whether an emergency protective order or order following hearing, was issued.
- (4) Nothing in this section shall preclude the Commonwealth from prosecuting and convicting the respondent of criminal offenses other than violation of a protective order.
- (5) Civil proceedings and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive. Once either proceeding has been initiated the other shall not be undertaken regardless of the outcome of the original proceeding.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 172, sec. 10.

403.763 Criminal penalty for violation of protective order.

- (1) A person is guilty of a violation of a protective order when he intentionally violates the provisions of an order issued pursuant to KRS 403.715 to 403.785 with which he has been served or has been given notice.
- (2) Violation of a protective order is a Class A misdemeanor.

Effective: July 14, 1992

History: Created 1992 Ky. Acts ch. 172, sec. 15.

403.765 Certification of existence of domestic violence protective orders -- Efficacy of existing orders.

If, following the entry of an order authorized by KRS 403.740 or 403.750, or the authentication of a foreign protective order pursuant to KRS 403.737, 403.7521, 403.7524, 403.7527, 403.7529, 403.7531, or 403.7535, the petitioner or the adverse party initiate an action in the Circuit Court under the provisions of this chapter, the party filing the petition shall certify the existence and status of any domestic violence protective orders. Unless the Circuit Court issues and serves an order pertaining to the same subject matter of any existing domestic violence order, orders of the District Court or the issuing

court shall remain in effect and shall be enforced in either District or Circuit Court.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 99, sec. 11, effective July 15, 1996. --

Amended 1992 Ky. Acts ch. 172, sec. 11.

403.770 Nonpublication of petitioner's and minor children's addresses --Forwarding of order to Law Information Network of Kentucky and other agencies.

- (1) The court, when issuing an emergency protective order, when authenticating a foreign protective order, or when causing the issuance of a summons, shall order the omission or deletion of the petitioner's address, and the address of any minor children from any documents to be made available to the public, or to the person or persons who engaged in the alleged act or acts of domestic violence and abuse.
- (2) The circuit clerk, in cooperation with the court shall cause a copy of each summons or order issued pursuant to KRS 403.740, 403.745, or 403.750, or foreign protective order, fully completed, authenticated pursuant to KRS 403.737, 403.7521, 403.7524, 403.7527, 403.7529, 403.7531, or 403.7535, to be forwarded, by the most expedient means reasonably available and within twenty-four (24) hours following its filing with the clerk, to the appropriate agency designated for entry of domestic violence records into the Law Information Network of Kentucky and to the agency assigned service. Any order or court record superseding, modifying, or otherwise affecting the status of an earlier summons or order shall likewise be forwarded by the circuit clerk to the appropriate Law Information Network of Kentucky entering agency and to the agency assigned service if service is required. The clerk and the court shall comply with all provisions and guidelines of the Law Information Network of Kentucky for entry of the records.
- (3) Each agency designated for entry of summonses and orders issued pursuant to the provisions of KRS 403.740, 403.745, or 403.750, or foreign protective order authenticated pursuant to KRS 403.737, 403.7521, 403.7524, 403.7527, 403.7529, 403.7531, or 403.7535, into the Law Information Network of Kentucky shall, consistent with the provisions and guidelines of the Law Information Network of Kentucky, enter the records immediately upon receipt of copies forwarded to the agency in accordance with subsection (2) of this section.
- (4) A copy of the petition and each order issued pursuant to KRS 403.740 and 403.750 shall be certified and forwarded by the circuit clerk, within twenty-four (24) hours to the circuit clerk in the usual county of residence and county where the petitioner and minor children, if any, currently reside.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 99, sec. 12, effective July 15, 1996. --

Amended 1992 Ky. Acts ch. 172, sec. 12.

403.771 Printout of foreign orders -- Annual validation.

For validation purposes the Law Information Network of Kentucky shall provide the Circuit Court clerk with a printout of foreign orders. The clerk shall validate each order annually by contacting the original issuing court or jurisdiction. If the clerk has not received information from the foreign jurisdiction within thirty-one (31) days the clerk shall cause orders not validated within thirty-one (31) days to be cleared from the Law

Information Network of Kentucky.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 99, sec. 17, effective July 15, 1996.

403.775 Effect of petitioner's leaving residence.

A person's right to apply for relief under the provisions of KRS 403.725 shall not be affected by that person leaving the residence of the parties to avoid domestic violence and abuse.

History: 1984 c 152, sec. 13, eff. 7-13-84

403.780 Testimony not admissible in criminal proceeding.

Testimony offered by an adverse party in a hearing held pursuant to the provisions of KRS 403.745 shall not be admissible in any criminal proceeding involving the same parties.

History: 1984 c 152, sec. 14, eff. 7-13-84

403.783 Model law enforcement domestic violence policy and procedures manual -- Distribution -- Agency submission to Justice Cabinet -- Assistance by cabinet when policy inadequate.

- (1) For the purposes of KRS 403.783 to 403.785, "law enforcement agency" means any agency of state, county, city, or metropolitan government, or a combination of these, responsible for employing and directing the action of peace officers, including sheriffs and their deputies, sworn police officers, sworn enforcement officers of the Kentucky State Police or other duly-authorized state law enforcement agency whose officers are persons with authority to make arrests under the provisions of KRS 403.760(2).
- (2) The secretary of the Justice Cabinet, or a designee, in consultation with legal, victims services, victim advocacy, and mental professionals with an expertise in domestic violence, shall develop a written model policy and procedures manual related to domestic violence for law enforcement agencies. The model policy shall set forth the core elements required to be addressed in each law enforcement agency's policy. The model policy shall also recommend procedures which may be included in local policies. The model policy shall be developed to comply with the provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Families and Children, Department for Community Based Services; victim rights, assistance and service responsibilities; and duties related to timely completion of records. The model policy shall be completed no later than four (4) months after July 15, 1996. The cabinet shall distribute a copy of the model policy to each law enforcement agency in the Commonwealth.
- (3) No later than January 1 after July 15, 1996 and July 31 of every even-numbered year which follows, every law enforcement agency shall submit a copy of the agency's written domestic violence policy to the Justice Cabinet.

- (4) If a law enforcement agency fails to submit a copy of the agency's written domestic violence policy in a timely manner, the secretary shall promptly notify the law enforcement agency in writing of the requirements contained in this section.
- (5) If the secretary determines that a law enforcement agency has submitted a domestic violence policy which is inadequate, the secretary shall reject the policy and provide assistance to the agency in developing an adequate domestic violence policy.

Effective: July 14, 2000

History: 1998 c 426, sec. 582, eff. 7-15-98; 1996 c 54, sec. 7, eff. 7-15-96.

403.784 Training and continuing education courses for law enforcement officers.

- (1) The Justice Cabinet shall develop initial training courses and continuing education courses, designed to be provided at least once every two (2) years, for law enforcement officers, police dispatchers, and probation or parole officers concerning the dynamics of domestic violence, child physical and sexual abuse, rape, effects of crime on adult and child victims, legal remedies for protection, lethality and risk issues, profiles of offenders, model protocols for addressing domestic violence, child abuse, rape, available community resources and victims services, and reporting requirements.

The training shall be developed in consultation with legal, victims services, victim advocacy, and mental health professionals with an expertise in domestic violence, child abuse and rape.

- (2) All law enforcement agencies shall provide initial training and, at least once every two (2) years, continuing education courses, developed by the Justice Cabinet pursuant to subsection (1), to all officers employed by them.
- (3) The Justice Cabinet shall provide initial training and, at least once every two (2) years, continuing education courses under subsection (1) of this section for police dispatchers and probation or parole officers.

Effective: July 14, 2000

History: 2000 c 317, sec. 5, eff. 7-14-00; 1996 c 54, sec. 8, eff. 7-15-96.

403.785 Duties of law enforcement agencies.

- (1) Each law enforcement agency shall report all incidents of actual or suspected domestic violence and abuse within their knowledge to the Cabinet for Human Resources, Department for Social Services, within forty-eight (48) hours of learning of the incident or of the suspected incident.
- (2) When a law enforcement officer has reason to suspect that a family member, member of an unmarried couple, or household member has been the victim of domestic violence and abuse, the officer shall use all reasonable means to prevent further abuse, including but not limited to:
 - (a) Remaining at the location of the domestic violence and abuse so long as the officer reasonably suspects there is danger to the physical safety of individuals present without the presence of a law enforcement officer;
 - (b) Assisting the victim of domestic violence and abuse in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and
 - (c) Advising the victim immediately of the rights available to them, including the

provisions of KRS 403.715 to 403.785.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 54, sec. 9, effective July 15, 1996. --

Amended 1992 Ky. Acts ch. 172, sec. 13.