



EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Department for Libraries & Archives

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June 21, 2018

KATRINA ISABELLE BORJA-MARTIN
First Secretary and Consul
Embassy of the Philippines
1600 Massachusetts Ave., NW
Washington, D.C. 20036

Dear Ms. Borja-Martin,

In response to your request for official copies of the pertinent chapters of the Kentucky Code on family laws and/or domestic relations, I am sending you a link to the Kentucky Legislative Research Commission that has the Kentucky Revised Statutes available online.

The chapters on Domestic Relations are found under Title XXXV chapters 401-407. Here is the link:

<http://www.lrc.ky.gov/Statutes/index.aspx>

TITLE XXXV - DOMESTIC RELATIONS

- **CHAPTER 401 CHANGE OF NAME**
- **CHAPTER 402 MARRIAGE**
- **CHAPTER 403 DISSOLUTION OF MARRIAGE -- CHILD CUSTODY**
- **CHAPTER 404 CONTRACTS AND SEPARATE ESTATE OF MARRIED WOMEN**
- **CHAPTER 405 PARENT AND CHILD**
- **CHAPTER 406 UNIFORM ACT ON PATERNITY**
- **CHAPTER 407 INTERSTATE SUPPORT ENFORCEMENT**
- CHAPTERS 408 TO 410 (Not yet utilized.)

Even though these documents will not be certified, hopefully they will give you a detailed view of Kentucky's laws.



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Office of Legal Affairs

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JONATHAN A. HIPE
Signing Officer

401.010 Adult may have name changed by District Court.


Any person at least eighteen (18) years of age may have his or her name changed by the District Court of the county in which he or she resides. If he or she resides on a United States Army post, military reservation, or fort, his or her name may be changed by the District Court of any county adjacent thereto.

Effective: March 22, 2013

History: Amended 2013 Ky. Acts ch. 89, sec. 1, effective March 22, 2013. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 395, effective January 2, 1978. -- Amended 1974 Ky. Acts ch. 66, sec. 1; and ch. 386, sec. 88. -- Amended 1968 Ky. Acts ch. 100, sec. 12; and ch. 200, sec. 9. -- Amended 1964 Ky. Acts ch. 155, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 3717.

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401.020 Parents or guardian may have child's name changed in District, Family, or Circuit Court.

Both parents, provided both are living, or one (1) parent if one (1) is deceased, or if no parent is living, the guardian, may have the name of a child under the age of eighteen (18) changed by the District Court, or if the Family Court or Circuit Court has a case before it involving the family, the Family Court of a county with a Family Court, or the Circuit Court of a county without a Family Court of the county in which the child resides. However, if one (1) parent refuses or is unavailable to execute the petition, proper notice of filing the petition shall be served in accordance with the Rules of Civil Procedure. If the child resides on a United States Army post, military reservation, or fort, his or her name may be changed by the District Court, or the Family Court of a county with a Family Court, or the Circuit Court of a county without a Family Court of any county adjacent thereto.

Effective: March 22, 2013

History: Amended 2013 Ky. Acts ch. 89, sec. 2, effective March 22, 2013. -- Amended 1980 Ky. Acts ch. 259, sec. 27, effective July 15, 1980. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 396, effective January 2, 1978. -- Amended 1974 Ky. Acts ch. 386, sec. 89. -- Amended 1968 Ky. Acts ch. 100, sec. 13. -- Amended 1964 Ky. Acts ch. 155, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 3718.

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401.030 Information to be entered on order book of court.


The original name, age, and place of birth, the name to which the change is made, and the names of the infant's father and mother, if known, and of the person on whose motion the change is made shall be entered on the order book of the District Court, Family Court, or Circuit Court in which the action was brought and is authorized to do so pursuant to KRS 401.020.

Effective: March 22, 2013

History: Amended 2013 Ky. Acts ch. 89, sec. 3, effective March 22, 2013. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 397, effective January 2, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 3719.

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401.040 Certification of order for name change -- Index kept by county clerk.

- (1) If the District Court, Family Court, or Circuit Court, as authorized by KRS 401.020, orders any person's name to be changed under this chapter, a copy of the order shall be certified by the clerk of that court to the county clerk, for record.
- (2) The county clerk shall keep an alphabetical index for each book of records, referring to the page on which each person's name change appears, and giving the name from and to which it is changed.

Effective: March 22, 2013

History: Amended 2013 Ky. Acts ch. 89, sec. 4, effective March 22, 2013. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 398, effective January 2, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 3720.

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402.005 Definition of marriage.

As used and recognized in the law of the Commonwealth, "marriage" refers only to the civil status, condition, or relation of one (1) man and one (1) woman united in law for life, for the discharge to each other and the community of the duties legally incumbent upon those whose association is founded on the distinction of sex.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 258, sec. 4, effective July 15, 1998.

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402.010 Degree of relationship that will bar marriage.

- (1) No marriage shall be contracted between persons who are nearer of kin to each other by consanguinity, whether of the whole or half-blood, than second cousins.
- (2) Marriages prohibited by subsection (1) of this section are incestuous and void.

History: Amended 1946 Ky. Acts ch. 124, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2096.

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402.020 Other prohibited marriages.

- (1) Marriage is prohibited and void:
 - (a) With a person who has been adjudged mentally disabled by a court of competent jurisdiction;
 - (b) Where there is a husband or wife living, from whom the person marrying has not been divorced;
 - (c) When not solemnized or contracted in the presence of an authorized person or society;
 - (d) Between members of the same sex;
 - (e) Between more than two (2) persons; and
 - (f) Except as provided in KRS 402.210, with a person who at the time of marriage is under eighteen (18) years of age.
- (2) Subsection (1)(f) of this section shall not apply to a lawful marriage entered into in the Commonwealth of Kentucky prior to July 14, 2018, or to a lawful marriage in another state or country prior to the parties' residence in the Commonwealth of Kentucky.

Effective: July 14, 2018

History: Amended 2018 Ky. Acts ch. 36, sec. 1, effective July 14, 2018. -- Amended 1998 Ky. Acts ch. 122, sec. 1, effective March 26, 1998 and ch. 258, sec. 2, effective July 15, 1998. -- Amended 1988 Ky. Acts ch. 212, sec. 1, effective July 15, 1988. -- Amended 1982 Ky. Acts ch. 141, sec. 113, effective July 1, 1982. -- Amended 1978 Ky. Acts ch. 92, sec. 12, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 399, effective January 2, 1978. -- Amended 1974 Ky. Acts ch. 49, sec. 6; and ch. 386, sec. 90. -- Amended 1968 Ky. Acts ch. 200, sec. 10. -- Amended 1966 Ky. Acts ch. 72, sec. 1. -- Amended 1960 Ky. Acts ch. 8, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2097.

Note: 1980 Ky. Acts ch. 396, sec. 124 would have amended this section effective July 1, 1982. However, 1980 Ky. Acts ch. 396 was repealed by 1982 Ky. Acts ch. 141, sec. 146, also effective July 1, 1982.

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402.030 Courts may declare certain marriages void.

- (1) Courts having general jurisdiction may declare void any marriage obtained by force or fraud, or, provided that the petition is brought by a party who was under the age of majority as defined by KRS 2.015 at the time of marriage, a marriage obtained by duress.
- (2) At the instance of any next friend, courts having general jurisdiction may declare any marriage void where the person was under eighteen (18) years of age at the time of the marriage, and the marriage was without the consent required by KRS 402.210.

Effective: July 14, 2018

History: Amended 2018 Ky. Acts ch. 36, sec. 2, effective July 14, 2018. -- Amended 1998 Ky. Acts ch. 122, sec. 2, effective March 26, 1998 and ch. 258, sec. 5, effective July 15, 1998. -- Amended 1988 Ky. Acts ch. 212, sec. 2, effective July 15, 1988. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 400, effective January 2, 1978. -- Amended 1960 Ky. Acts ch. 8, sec. 2, effective June 16, 1960. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2100.

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402.040 Marriage in another state.


- (1) If any resident of this state marries in another state, the marriage shall be valid here if valid in the state where solemnized, unless the marriage is against Kentucky public policy.
- (2) A marriage between members of the same sex is against Kentucky public policy and shall be subject to the prohibitions established in KRS 402.045.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 258, sec. 3, effective July 15, 1998. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2101.

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402.045 Same-sex marriage in another jurisdiction void and unenforceable.

- (1) A marriage between members of the same sex which occurs in another jurisdiction shall be void in Kentucky.
- (2) Any rights granted by virtue of the marriage, or its termination, shall be unenforceable in Kentucky courts.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 258, sec. 1, effective July 15, 1998.

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402.050 Who may solemnize marriage -- Persons present.

- (1) Marriage shall be solemnized only by:
 - (a) Ministers of the gospel or priests of any denomination in regular communion with any religious society;
 - (b) Justices and judges of the Court of Justice, retired justices and judges of the Court of Justice except those removed for cause or convicted of a felony, county judges/executive, and such justices of the peace and fiscal court commissioners as the Governor or the county judge/executive authorizes; or
 - (c) A religious society that has no officiating minister or priest and whose usage is to solemnize marriage at the usual place of worship and by consent given in the presence of the society, if either party belongs to the society.
- (2) At least two (2) persons, in addition to the parties and the person solemnizing the marriage, shall be present at every marriage.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 205, sec. 1, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 50, sec. 1, effective July 14, 1992. -- Amended 1978 Ky. Acts ch. 384, sec. 516, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 401, effective January 2, 1978. -- Amended 1968 Ky. Acts ch. 102, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2103, 2107.

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402.060 Repealed, 1996.

Catchline at repeal: Minister or priest to have license to solemnize marriage --
Exemption -- Special license for nonresident.

History: Repealed 1996 Ky. Acts ch. 205, sec. 3, effective July 15, 1996. -- Amended
1994 Ky. Acts ch. 220, sec. 1, effective July 15, 1994. -- Amended 1988 Ky. Acts ch.
243, sec. 2, effective April 9, 1988. -- Amended 1980 Ky. Acts ch. 188, sec. 110,
effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 246, sec. 1, effective June 17,
1978. -- Amended 1974 Ky. Acts ch. 386, sec. 92. -- Recodified 1942 Ky. Acts ch.
208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2104.

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402.070 Marriage not invalid for want of authority to solemnize.

No marriage solemnized before any person professing to have authority therefor shall be invalid for the want of such authority, if it is consummated with the belief of the parties, or either of them, that he had authority and that they have been lawfully married.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2102.

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402.080 Marriage license required -- Who may issue.

No marriage shall be solemnized without a license therefor. The license shall be issued by the clerk of the county in which the female resides at the time, unless the female is eighteen (18) years of age or over or a widow, and the license is issued on her application in person, in which case it may be issued by any county clerk.

Effective: July 14, 2018

History: Amended 2018 Ky. Acts ch. 36, sec. 3, effective July 14, 2018. -- Amended 1984 Ky. Acts ch. 279, sec. 1, effective July 13, 1984. -- Amended 1980 Ky. Acts ch. 74, sec. 1, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 384, sec. 518, effective June 17, 1978. -- Amended 1968 Ky. Acts ch. 100, sec. 14. -- Amended 1948 Ky. Acts ch. 42, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2105.

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402.090 Soliciting persons to be married by particular person -- Sharing remuneration -- Solicitation by minister or justice of the peace.

- (1) No person shall, for compensation or reward, solicit, persuade, entice, direct or induce any persons to go before any person authorized to solemnize marriage to be married. No such person shall receive for such services any part of the remuneration paid for solemnizing the marriage.
- (2) No person authorized to solemnize marriage shall pay, give to, or divide or share with any other person any sum of money or other thing obtained by him for solemnizing marriage.
- (3) No person authorized to solemnize marriage shall solicit, persuade, entice, direct or induce any persons to come before him to be married.

History: Amended 1946 Ky. Acts ch. 29, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2103.

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402.100 Marriage license -- Marriage certificate -- Confidentiality of Social Security or other government-issued identification card numbers.

Each county clerk shall make available to the public the form prescribed by the Department for Libraries and Archives for the issuance of a marriage license. The department shall issue a marriage license form which provides for the entering of information identifying each party as a "bride," "groom," or "spouse." This form shall provide for the entering of all of the information required in this section, and may also provide for the entering of additional information prescribed by the Department for Libraries and Archives. The form shall consist of:

- (1) A marriage license which provides for the entering of:
 - (a) An authorization statement for any person or religious society authorized to perform marriage ceremonies to unite in marriage the parties named;
 - (b) Vital information for each party, including the full name, date of birth, place of birth, race, gender, condition (single, widowed, or divorced), number of previous marriages, occupation, current residence, relationship to the other party, and full names of parents;
 - (c) A statement signed by both parties swearing that, to the best of their knowledge, the information provided on the form is correct; and
 - (d) The date and place the application was made.
- (2) A marriage certificate which provides for the entering of:
 - (a) A statement by the person performing the marriage ceremony or the clerk of the religious society authorized to solemnize the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony or the name of the religious society solemnizing the marriage, the names of persons married, the date and place of the marriage, and the names of two (2) witnesses;
 - (b) A statement by the person performing the marriage ceremony of his legal qualification under this chapter to perform the ceremony, such statement to include the name of the county or city where his license to perform marriage ceremonies was issued or, in the case of religious societies authorized by KRS 402.050(1)(c) to solemnize marriages, the name of the city or county where the religious society is incorporated. The provisions of this paragraph shall not be construed to require the clerk of a religious society to be present at the marriage so long as the witnesses of the society are present;
 - (c) The printed name and dated signature of the person performing the ceremony; and
 - (d) A signed statement indicating that the marriage certificate was recorded in the county in which it was filed. The statement shall also include the title of the county clerk or deputy clerk of the county in which the certificate was filed and indicate the date the marriage certificate was recorded.
- (3) A certificate to be delivered by the person performing the marriage ceremony or the clerk of the religious society performing the marriage ceremony to the parties married. This certificate shall provide for the entering of:

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- (a) A statement by the person performing the marriage ceremony or the clerk of the religious society performing the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony, or the name of the religious society performing the ceremony, the names of persons married, the date and place of the marriage, and the names of two (2) witnesses; and
 - (b) A dated signature of the person performing the ceremony or the clerk of the religious society performing the ceremony.
- (4) A Social Security card or other government-issued identification card shall be requested as a means of identification of each party but the number shall not be recorded or retained.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 177, sec. 7, effective June 29, 2017. -- Amended 2016 Ky. Acts ch. 132, sec. 1, effective July 15, 2016. -- Amended 2006 Ky. Acts ch. 101, sec. 1, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 99, sec. 621, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 428, sec. 1, effective July 14, 2000. -- Amended 1994 Ky. Acts ch. 220, sec. 2, effective July 15, 1994. -- Amended 1984 Ky. Acts ch. 279, sec. 2, effective July 13, 1984. -- Amended 1976 Ky. Acts ch. 15, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2103.

Legislative Research Commission Note. This section was amended by 1984 Ky. Acts ch. 111, sec. 158, and 1984 Ky. Acts ch. 279, sec. 2, which are in conflict and cannot be compiled together. Pursuant to KRS 7.123, the amendment in ch. 279, sec. 2, the nonrevisory Act, prevails.

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402.105 Marriage license valid for thirty days.

A marriage license shall be valid for thirty (30) days, including the date it is issued, and after that time it shall be invalid.

Effective: July 13, 1984

History: Repealed and reenacted as this section 1984 Ky. Acts ch. 111, sec. 159, effective July 13, 1984. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2105a-3.

Formerly codified as KRS 402.190.

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402.110 Marriage license to be uniform and completely filled out -- Exception under KRS 402.100.

Except as provided in KRS 402.100(1), the form of marriage license prescribed in KRS 402.100 shall be uniform throughout this state, and every license blank shall contain the identical words and figures provided in the form prescribed by KRS 402.100. In issuing the license the clerk shall deliver it in its entirety to the licensee. The clerk shall see to it that every blank space required to be filled by the applicants is so filled before delivering it to the licensee.

Effective: July 15, 2016

History: Amended 2016 Ky. Acts ch. 132, sec. 2, effective July 15, 2016. -- Amended 1984 Ky. Acts ch. 279, sec. 3, effective July 13, 1984. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2103a.

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402.120 Repealed, 1982.

Catchline at repeal: Medical examination required -- Exception.

History: Repealed 1982 Ky. Acts ch. 146, sec. 4, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 74, sec. 2, effective July 15, 1980. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2105a-1a.

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402.130 Repealed, 1982.

Catchline at repeal: Medical examination -- Laboratory tests.

History: Repealed 1982 Ky. Acts ch. 146, sec. 4, effective July 15, 1982. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(11). -- Amended 1972 Ky. Acts ch. 157, sec. 2 . -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2105a-1b.

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402.140 Repealed, 1982.

Catchline at repeal: Procedure upon return of examination.

History: Repealed 1982 Ky. Acts ch. 146, sec. 4, effective July 15, 1982. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(10). -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2105a-1c.

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402.150 Repealed, 1982.

Catchline at repeal: License for marriage of pregnant woman without medical certificate.

History: Repealed 1982 Ky. Acts ch. 146, sec. 4, effective July 15, 1982. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 402, effective January 2, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(10). -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2105a-1d.

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402.160 Repealed, 1982

Catchline at repeal: Submission of specimen to laboratory -- Report to department.

History: Repealed 1982 Ky. Acts ch. 146, sec. 4, effective July 15, 1982. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(10) and (11). -- Amended 1972 Ky. Acts ch. 157, sec. 3. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2105a-1e.

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402.170 Repealed, 1982

Catchline at repeal: Protest after refusal of medical certificate and marriage license --
Hearing.

History: Repealed 1982 Ky. Acts ch. 146, sec. 4, effective July 15, 1982. -- Amended
1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 403, effective January 2, 1978. --
Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(2). -- Recodified 1942 Ky. Acts ch.
208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2105a-2a.

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402.180 Repealed, 1982

Catchline at repeal: Appeal to circuit court.

History: Repealed 1982 Ky. Acts ch. 146, sec. 4, effective July 15, 1982. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 404, effective January 2, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(2). -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2105a-2b.

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402.190 Renumbered as KRS 402.105.

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402.200 Repealed, 1982.

Catchline at repeal: County health officer to advise district court.

History: Repealed 1982 Ky. Acts ch. 146, sec. 4, effective July 15, 1982. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 405, effective January 2, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2105a-4.

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402.205 Petition to court by seventeen year old for permission to marry -- Evidentiary hearing -- Reasons for denying petition -- Effect of pregnancy -- Emancipation of minor -- Other court-imposed condition -- Fee.

- (1) A minor who is seventeen (17) years of age may petition the family court in the county in which the minor resides, or the District Court in that county if a family court division has not been established in that county, for an order granting permission to marry. The petition shall contain the following:
- (a) The petitioner's name, gender, age, date of birth, address, and how long the petitioner has resided at that address, as well as prior addresses and dates of residence for the six (6) months preceding the petition;
 - (b) The intended spouse's name, gender, age, date of birth, address, and how long the intended spouse has resided at that address, as well as prior addresses and dates of residence for the six (6) months preceding the petition;
 - (c) An affidavit attesting to the consent to marry signed by:
 - 1. The father or the mother of the petitioner, if the parents are married, the parents are not legally separated, no legal guardian has been appointed for petitioner, and no court order has been issued granting custody of petitioner to a party other than the father or mother;
 - 2. Both the father and the mother, if both are living and the parents are divorced or legally separated, and a court order of joint custody to the parents of the petitioner has been issued and is in effect;
 - 3. The surviving parent, if the parents were divorced or legally separated, and a court order of joint custody to the parents of the petitioner was issued prior to the death of either the father or mother, which order remains in effect;
 - 4. The custodial parent, as established by a court order which has not been superseded, where the parents are divorced or legally separated and joint custody of the petitioner has not been ordered; or
 - 5. Another person having lawful custodial charge of the petitioner;
 - (d) A statement of the reasons why the petitioner desires to marry, how the parties came to know each other, and how long they have known each other;
 - (e) Evidence of the petitioner's maturity and capacity for self-sufficiency independent of the petitioner's parents and the intended spouse, including but not limited to:
 - 1. Proof that the petitioner has maintained stable housing or employment for at least three (3) consecutive months prior to the petition; and
 - 2. Proof that the petitioner has completed high school, obtained a High School Equivalency Diploma, or completed a vocational training or certificate program;
 - (f) Copies of any criminal records of either party to be married; and
 - (g) Copies of any domestic violence order or interpersonal protective order involving either party to be married.

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- (2) Upon the filing of the petition for permission to marry, the court shall set a date for an evidentiary hearing on the petition that is no sooner than thirty (30) days but not later than sixty (60) days from the date of the filing.
- (3) The petitioner may be represented by counsel in court proceeding pertaining to the petition to marry.
- (4) The court shall take reasonable measures to ensure that any representations made by a minor party are free of coercion, undue influence, or duress. Reasonable measures shall include but are not limited to in camera interviews.
- (5) Following an evidentiary hearing, the court shall grant the minor's petition for permission to marry unless:
 - (a) The age difference between the parties is more than four (4) years;
 - (b) The intended spouse was or is a person in a position of authority or a position of special trust as defined in KRS 532.045 in relation to the minor;
 - (c) The intended spouse has previously been enjoined by a domestic violence order or interpersonal protective order, regardless of whether or not the person to be protected by the order was the minor petitioner;
 - (d) The intended spouse has been convicted of or entered into a diversion program for a criminal offense against a victim who is a minor as defined in KRS 17.500 or for a violent or sexual criminal offense under KRS Chapter 506, 507, 507A, 508, 509, 510, 529, 530, or 531;
 - (e) The court finds by a preponderance of the evidence that the minor was a victim and that the intended spouse was the perpetrator of a sexual offense against the minor under KRS 510.040, 510.050, 510.060, 510.110, 510.120, or 510.130;
 - (f) The court finds by a preponderance of the evidence that abuse, coercion, undue influence, or duress is present; or
 - (g) The court finds that it would otherwise not be in the minor party's best interest to grant the petition to marry.
- (6) A past or current pregnancy of the minor or the intended spouse shall not be sufficient evidence to establish that the best interests of the minor would be served by granting the petition for marriage.
- (7) The granting of a petition for permission to marry filed under subsection (1) of this section shall remove the disabilities of minority. A minor emancipated by the petition shall be considered to have all the rights and responsibilities of an adult, except for specific constitutional or statutory age requirements, including but not limited to voting, the use of alcoholic beverages, and other health and safety regulations relevant to him or her because of his or her age.
- (8) The minor shall be advised by the court of the rights and responsibilities of parties to a marriage and of emancipated minors. The minor shall be provided with a fact sheet on these rights and responsibilities to be developed by the Office of the Attorney General and the Cabinet for Health and Family Services. The fact sheet shall include referral information for legal aid agencies in the Commonwealth and national hotlines for domestic violence and sexual assault.

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- (9) The court may make any other orders that the court deems appropriate for the minor's protection and may impose any other condition on the grant of the petition that the court determines is reasonable under the circumstances for the minor's protection.
- (10) The court may set a fee not to exceed twenty dollars (\$20) to file a petition for permission to marry under this section.

Effective: July 14, 2018

History: Created 2018 Ky. Acts ch. 36, sec. 7, effective July 14, 2018.

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402.210 Requirements for issuance of license.

- (1) Both parties to a marriage shall:
 - (a) Be present for a marriage license to be issued; and
 - (b) Present to the county clerk documentary proof of age in the form of:
 1. A copy of a birth record;
 2. A certification of birth issued by the state department of health, a local registrar of vital statistics, or other public office charged with similar duties by the laws of another state, territory, or country;
 3. A baptismal record showing the individual's date of birth;
 4. A passport;
 5. An automobile driver's license;
 6. Any government or school issued identification card showing the individual's date of birth;
 7. An immigration record showing the individual's date of birth;
 8. A naturalization record showing the individual's date of birth; or
 9. A court record or any other document or record issued by a government entity showing the individual's date of birth.
- (2) If either of the parties is under seventeen (17) years of age, no license shall be issued.
- (3) If either of the parties is seventeen (17) years of age, a marriage license shall not be issued unless:
 - (a) The party who is seventeen (17) years of age presents to the clerk a certified copy of a court order by a family court or District Court judge that grants the party permission to marry and removes the party's disability of minority, as provided in KRS 402.205; and
 - (b) At least fifteen (15) days have elapsed since the court order was granted.

Effective: July 14, 2018

History: Amended 2018 Ky. Acts ch. 36, sec. 4, effective July 14, 2018. -- Amended 1998 Ky. Acts ch. 122, sec. 3, effective March 26, 1998 and ch. 258, sec. 6, effective July 15, 1998. -- Amended 1988 Ky. Acts ch. 212, sec. 3, effective July 15, 1988. -- Amended 1974 Ky. Acts ch. 386, sec. 93. -- Amended 1968 Ky. Acts ch. 100, sec. 15. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2106.

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402.220 Return of license and certificate to clerk after ceremony.

The person solemnizing the marriage or the clerk of the religious society before which it was solemnized shall within one (1) month return the license to the county clerk of the county in which it was issued, with a certificate of the marriage over his signature, giving the date and place of celebration and the names of at least two (2) of the persons present.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 220, sec. 3, effective July 15, 1994. -- Amended 1984 Ky. Acts ch. 279, sec. 4, effective July 13, 1984. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2107.

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402.230 Filing of marriage certificate -- Record of marriages.

The certificate shall be filed in the county clerk's office. The county clerk shall keep in a record book a fair register of the parties' names, the person by whom, or the religious society by which, the marriage was solemnized, the date when the marriage was solemnized, and shall keep an index to the book in which the register is made.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 220, sec. 4, effective July 15, 1994. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2108, 2108-1.

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402.240 County judge/executive to issue license in absence of clerk.

In the absence of the county clerk, or during a vacancy in the office, the county judge/executive may issue the license and, in so doing, he shall perform the duties and incur all the responsibilities of the clerk. The county judge/executive shall return a memorandum thereof to the clerk, and the memorandum shall be recorded as if the license had been issued by the clerk.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2113.

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402.250 Circuit Court may affirm or avoid marriage.

Where doubt is felt as to the validity of a marriage, either party may, by petition in Circuit Court, demand its avoidance or affirmance; but where one (1) of the parties was of the age of majority, as defined by KRS 2.015 at the time of marriage, the party who is of proper age may not bring such a proceeding for that cause against the party under age.

Effective: July 14, 2018

History: Amended 2018 Ky. Acts ch. 36, sec. 5, effective July 14, 2018. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 406, effective January 2, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2115.

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402.260 Repealed, 2018.

Catchline at repeal: Receivership for person under eighteen who marries without judicial consent.

History: Repealed 2018 Ky. Acts ch. 36, sec. 6, effective July 14, 2018. -- Amended 1998 Ky. Acts ch. 258, sec. 7, effective July 15, 1998. -- Amended 1988 Ky. Acts ch. 212, sec. 4, effective July 15, 1988. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 407, effective January 2, 1978. -- Amended 1974 Ky. Acts ch. 386, sec. 94. -- Amended 1968 Ky. Acts ch. 100, sec. 16. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2116.

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402.270 Marriage manual -- Preparation by Human Resources Coordinating Commission for distribution to marriage applicants.

- (1) The Human Resources Coordinating Commission of Kentucky shall prepare a marriage manual for distribution to all applicants for a marriage license. The manual shall include, but not be limited to, material on family planning, proper health and sanitation practices, nutrition, consumer economics, and the legal responsibilities of spouses to each other and as parents to their children.
- (2) When the manual is approved it shall be printed by the Human Resources Coordinating Commission. Copies of the manual shall be sent to the county clerk of each county. Each county clerk shall give a copy to each applicant for a marriage license.

History: Amended 1976 Ky. Acts ch. 62, sec. 123. -- Created 1972 Ky. Acts ch. 26, sec. 1.

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402.310 Sickle Cell Disease Detection Act.

KRS 402.310 to 402.340 may be cited as the Kentucky Sickle Cell Disease Detection Act of 1972.

History: Created 1972 Ky. Acts ch. 122, sec. 1.

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402.320 Marriage license applicants to be tested for trait or genetically transmitted disease affecting hemoglobin -- Counseling carriers.

Every physician examining applicants for a marriage license may obtain an appropriate blood specimen from each applicant and forward same to the Division of Laboratory Services, Cabinet for Health and Family Services, or to a laboratory approved by the cabinet, to ascertain the existence or nonexistence of sickle cell trait or sickle cell disease, or any other genetically transmitted disease which affects hemoglobin. In the event the laboratory tests indicate that both applicants are carriers of a trait or disease, the physician may provide genetic counseling or refer the applicants to the cabinet or to an agency approved by the cabinet for such counseling.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 99, sec. 622, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 426, sec. 577, effective July 15, 1998. -- Amended 1974 Ky. Acts ch. 273, sec. 1. -- Created 1972 Ky. Acts ch. 122, sec. 2.

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402.330 Repealed, 1974.

Catchline at repeal: Testing of newborn child for sickle cell trait or disease.

History: Repealed 1974 Ky. Acts ch. 273, sec. 3. -- Created 1972 Ky. Acts ch. 122, sec. 3.

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402.340 Secretary for Health and Family Services to administer and enforce Sickle Cell Disease Detection Act.

The secretary for health and family services shall adopt rules and regulations for the proper administration and enforcement of KRS 402.310 to 402.340.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 99, sec. 623, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 426, sec. 578, effective July 15, 1998. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(10). -- Created 1972 Ky. Acts ch. 122, sec. 4.

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402.990 Penalties.


- (1) Any party to a marriage prohibited by KRS 402.010 shall be guilty of a Class B misdemeanor. If the parties continue after conviction to cohabit as man and wife, either or both of them shall be guilty of a Class A misdemeanor.
- (2) Any person who aids or abets the marriage of any person who has been adjudged mentally disabled, or attempts to marry, or aids or abets any attempted marriage with any such person shall be guilty of a Class B misdemeanor.
- (3) Any authorized person who knowingly solemnizes a marriage prohibited by this chapter shall be guilty of a Class A misdemeanor.
- (4) Any unauthorized person who solemnizes a marriage under pretense of having authority, and any person who falsely personates the father, mother, or guardian of an applicant in obtaining a license shall be guilty of a Class D felony.
- (5) Any person who falsely and fraudulently represents or personates another, and in such assumed character marries that person, shall be guilty of a Class D felony. Indictment under this subsection shall be found only upon complaint of the injured party and within two (2) years after the commission of the offense.
- (6) Any clerk who knowingly issues a marriage license to any persons prohibited by this chapter from marrying shall be guilty of a Class A misdemeanor and removed from office by the judgment of the court in which he is convicted.
- (7) Any clerk who knowingly issues a marriage license in violation of his duty under this chapter shall be guilty of a Class A misdemeanor.
- (8) If any deputy clerk or any person other than a county clerk knowingly issues a marriage license in violation of this chapter, but not for a prohibited marriage, he shall be guilty of a Class A misdemeanor, and if he knowingly issues a license for a marriage prohibited by this chapter, he shall be guilty of a Class A misdemeanor.
- (9) Any person who violates any of the provisions of KRS 402.090 shall be guilty of a violation.
- (10) Any county clerk who violates any of the provisions of KRS 402.110 or 402.230 shall be guilty of a violation.
- (11) Any person failing to make the return required of him by KRS 402.220 shall be guilty of a violation.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 205, sec. 2, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 463, sec. 45, effective July 14, 1992. -- Amended 1982 Ky. Acts ch. 141, sec. 114, effective July 1, 1982; and ch. 146, sec. 2, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 92, sec. 13, effective June 17, 1978; and ch. 384, sec. 519, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 273, sec. 2. -- Amended 1972 Ky. Acts ch. 122, sec. 5. -- Amended 1970 Ky. Acts ch. 92, sec. 94. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat secs. 216aa-50, 1209, 1210, 2103, 2103a, 2104, 2105a-2c, 2105a-5, 2107, 2109, 2110, 2111, 2112, 2114.

Note: 1980 Ky. Acts ch. 396, sec. 125 would have amended this section effective July 1, 1982. However, 1980 Ky. Acts ch. 396 was repealed by 1982 Ky. Acts ch. 141, sec. 146, also effective July 1, 1982.

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403.010 Court may grant divorce -- Remarriage.

A jury shall not be impaneled in any action for divorce, alimony or maintenance, but courts having general jurisdiction may grant a divorce for the cause set out in this chapter. A decree of dissolution of marriage authorizes either party to marry again.

Effective: January 2, 1978

History: Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 408, effective January 2, 1978. -- Amended 1972 Ky. Acts ch. 182, sec. 27. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2117, 2118.

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403.020 Repealed, 1972.

Catchline at repeal: Grounds for divorce -- Procedure in case of divorce on ground of insanity.

History: Repealed 1972 Ky. Acts ch. 182, sec. 29. -- Amended 1962 Ky. Acts ch. 210, sec. 49. -- Amended 1956 Ky. Acts ch. 72, sec. 1. -- Amended 1950 Ky. Acts ch. 162, sec. 1. -- Amended 1946 Ky. Acts ch. 74, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2117.

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403.025 Proof in action for dissolution of marriage; credible witnesses.

- (1) The statements of a petition for dissolution of marriage concerning the residence of the parties and irretrievable breakdown of the marriage shall not be taken as true because of the respondent's failure to deny the statements, and the facts as to residence of the parties must be proved by one (1) or more credible witnesses.
- (2) The petitioner or respondent in an action for dissolution of marriage may be considered a credible witness, within the meaning of subsection (1) of this section, to be utilized in order to prove residency of the parties. The provisions of this subsection shall be retroactive in effect.

Effective: July 15, 1988

History: Amended 1988 Ky. Acts ch. 61, sec. 1, effective July 15, 1988. -- Amended 1974 Ky. Acts ch. 340, sec. 1. -- Transferred 1952 Ky. Acts ch. 84, sec. 1, effective July 1, 1953, from C.C. sec. 422. -- C.C. sec. 422 amended 1892 Ky. Acts ch. 57, sec. 1.

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403.030 Repealed, 1972.

Catchline at repeal: Proof required for divorce.

History: Repealed 1972 Ky. Acts ch. 182, sec. 29. -- Amended 1946 Ky. Acts ch. 179, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2119.

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403.033 Advisory committee appointment -- Functions -- Recommendations.

The judge of any Circuit Court may appoint an advisory committee to counsel with litigants in divorce actions. The committee shall serve without salary or expenses. The court may request the parties involved in these proceedings to appear before the said committee at a designated time and place. The committee may make recommendation to the court as to their conclusions from said counseling. These recommendations are not binding on the court.

History: Created 1966 Ky. Acts ch. 238, sec. 1.

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403.035 Repealed, 1972.

Catchline at repeal: Required allegations and proof in addition to cause of divorce.

History: Repealed 1972 Ky. Acts ch. 182, sec. 29. -- Transferred 1952 Ky. Acts ch. 84, sec. 1, effective July 1, 1953, from C.C. sec. 423. -- C.C. sec. 423 amended 1940 Ky. Acts ch. 96.

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403.036 Mediation not to be ordered unless conditions are met.

In any court proceeding conducted pursuant to KRS 403.010 to 403.350, if there is a finding of domestic violence and abuse, as defined in KRS 403.720, the court shall not order mediation unless requested by the victim of the alleged domestic violence and abuse, and the court finds that:

- (1) The victim's request is voluntary and not the result of coercion; and
- (2) Mediation is a realistic and viable alternative to or adjunct to the issuance of an order sought by the victim of the alleged domestic violence and abuse.

Effective: July 15, 1996

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

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403.040 Annulment of divorce decree -- Effect.

The court rendering a judgment for divorce may, at any time, annul it on the joint application of the parties, and restore the parties to the condition of husband and wife. The annulment voids the divorce decree and any separation agreement.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 236, sec. 1, effective June 17, 1978. -- Amended 1972 Ky. Acts ch. 345, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2120.

Legislative Research Commission Note. This section was amended in a somewhat different form by Acts 1972, ch. 345, sec. 1; it was also repealed by Acts 1972, ch. 182, sec. 29, which thoroughly revised this chapter. An attempt has been made to give effect to the apparent intention of both acts in this compilation.

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403.041 Judgment of divorce may be annulled.

A judgment of divorce from the bond of matrimony may be annulled by the court which rendered it, upon a petition verified by the parties in person so requesting.

Effective: July 1, 1953

History: Transferred 1952 Ky. Acts ch. 84, sec. 1, effective July 1, 1953, from C.C. sec. 426.

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403.042 Judgment of divorce from bed and board may be annulled.


A judgment of divorce from bed and board may be annulled by the court which rendered it, at the instance of either party showing just cause therefor in an equitable action.

Effective: July 1, 1953

History: Transferred 1952 Ky. Acts ch. 84, sec. 1, effective July 1, 1953, from C.C. sec. 427.

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403.043 Repealed, 1968.

Catchline at repeal: Interlocutory decree required; when judgment final; interlocutory decree set aside, when.

History: Repealed 1968 Ky. Acts ch. 43, sec. 1. -- Created 1966 Ky. Acts ch. 237, sec. 1.

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403.044 Testimony in certain cases not taken for sixty days after complaint filed.

In divorce actions in which there are minor children who are the issue of the marriage no testimony other than on temporary motions shall be taken or heard before sixty (60) days have elapsed from the date of service of summons, the appointment of a warning order attorney or the filing of an entry of appearance or a responsive pleading by the defendant, whichever occurs first.

Effective: July 15, 1980

History: Amended 1980 Ky. Acts ch. 45, sec. 1, effective July 15, 1980. -- Amended 1972 Ky. Acts ch. 253, sec. 1. -- Created 1968 Ky. Acts ch. 43, sec. 2.

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403.050 Divorce from bed and board -- Grounds and legal effect.

Divorce from bed and board may be rendered for any cause that allows divorce, or for any other cause that the court in its discretion considers sufficient. A divorce from bed and board shall operate as to property thereafter acquired, and upon the personal rights and legal capacities of the parties, as a divorce from the bond of matrimony, except that neither shall marry again during the life of the other, and except that it shall not bar curtesy, dower or distributive right. The judgment may be revised or set aside at any time by the court rendering it.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2121.

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403.055 Repealed, 1972.

Catchline at repeal: Wife may be allowed maintenance during pendency of action.

History: Repealed 1972 Ky. Acts ch. 182, sec. 29. -- Transferred 1952 Ky. Acts ch. 84, sec. 1, effective July 1, 1953, from C.C. sec. 424.

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403.060 Repealed, 1972

Catchline at repeal: Disposition of property -- Restoration of maiden name.

History: Repealed 1972 Ky. Acts ch. 182, sec. 29. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 2121, 2122, 2123.

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403.065 Repealed, 1972

Catchline at repeal: Proceedings for restoration of property.

History: Repealed 1972 Ky. Acts ch. 182, sec. 29. -- Transferred 1952 Ky. Acts ch. 84, sec. 1, effective July 1, 1953, from C.C. sec. 425.

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403.070 Repealed, 1972.

Catchline at repeal: Court to provide for care of children.

History: Repealed 1972 Ky. Acts ch. 182, sec. 29. -- Amended 1968 Ky. Acts ch. 100, sec. 17. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2123.

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403.080 Repealed, 1972.

Catchline at repeal: When wife may obtain order securing alimony and maintenance.

History: Repealed 1972 Ky. Acts ch. 182, sec. 29. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2124.

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403.090 Friend of the court -- Appointment -- Tenure -- Duties -- Wage withholding collections -- Compensation.

- (1) The fiscal court of any county may, by resolution, authorize the appointment of a "friend of the court." If the Circuit Court of the county has but one (1) judge, the appointment shall be made by the judge. If the court has two (2) or more judges, the appointment shall be made by joint action of the judges, at the general term. The person appointed to the office of friend of the court shall serve at the pleasure of, and subject to removal by, the appointing authority. The person appointed shall be a licensed practicing attorney. The appointed person shall take the constitutional oath of office and shall give bond in such sum as may be fixed by the appointing judge or judges.
- (2) Except for those cases administered pursuant to 42 U.S.C. secs. 651 et seq., it shall be the duty of the friend of the court to supervise and enforce the payment of sums ordered or adjudged by the Circuit Court in divorce actions to be paid for the care and maintenance of minor children. All persons who have been ordered or adjudged by the court, in connection with divorce actions, to make payments for the care and maintenance of children, shall, if so ordered by the court, make such payments to the friend of the court. The friend of the court shall see that the payments, except for those cases administered pursuant to 42 U.S.C. secs. 651 et seq., are properly applied in accordance with the order or judgment. However, if the court so directs, the payments may be made through the juvenile session of District Court of the county; in such case the friend of the court shall render such assistance as may be required in keeping records concerning such payments and in the enforcement of delinquent payments, and the Circuit Court may direct that a designated amount or portion of the funds appropriated by the fiscal court for expenses of the friend of the court be paid to the juvenile session of District Court as reimbursement for the expenses incurred by the juvenile session of District Court in connection with the handling of such payments. The friend of the court shall promptly investigate all cases where payments have become delinquent, and when necessary shall cause the delinquent person to be brought before the court for the purpose of compelling payment. The friend of the court shall ascertain the facts concerning the care, custody, and maintenance of children for whom payments are being made, and shall report to the court all cases in which the children are not receiving proper care or maintenance, or in which the person having custody is failing to furnish proper custody. He shall make such other reports to the court as the court may require.
- (3) In the event that a waiver is granted under 42 U.S.C. secs. 651 et seq., allowing payment of wage withholding collections to be directed to the friend of the court, an obligor shall be given the option of payment either to the friend of the court or the centralized collection agency.
- (4) In any action for divorce where the parties have minor children, the friend of the court, if requested by the trial judge, shall make such investigation as will enable the friend of the court to ascertain all facts and circumstances that will affect the rights and interests of the children and will enable the court to enter just and proper orders and judgment concerning the care, custody, and maintenance of the children.

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The friend of the court shall make a report to the trial judge, at a time fixed by the judge, setting forth recommendations as to the care, custody, and maintenance of the children. The friend of the court may request the court to postpone the final submission of any case to give the friend of the court a reasonable time in which to complete the investigation.


- (5) The friend of the court shall have authority to secure the issuance by the court of any order, rule, or citation necessary for the proper enforcement of orders and judgments in divorce actions concerning the custody, care, and maintenance of children. In performing duties under subsection (4) of this section the friend of the court shall attend the taking of depositions within the county, and shall have authority to cross-examine the witnesses. In the case of depositions taken on interrogatories, the friend of the court may file cross-interrogatories. The friend of the court shall be duly notified of the time and place of the taking of depositions in all divorce actions where the parties have minor children, and shall attend the taking of all such depositions when the friend of the court deems it necessary for the protection of the minor children, or when the friend of the court may be directed by the court to attend.
- (6) The friend of the court shall not directly or indirectly represent any party to a divorce action except as herein authorized to represent the minor children of parties to a divorce action, but if an allowance is made for the support of a spouse and an infant child or children, may proceed to enforce the payment of the allowance made to the spouse also.
- (7) Where a friend of the court is acting as a designee of the cabinet pursuant to KRS 205.712 and an applicant for Title IV-D services pursuant to KRS 205.721 has requested a modification of an existing child support order pursuant to a divorce or other judicial order, the friend of the court shall seek the modification, providing all jurisdictional requirements are met. The friend of the court's representation shall extend only for the limited purpose of seeking a modification of an existing child support order consistent with the provisions of KRS 403.212.
- (8) The fiscal court of any county which has authorized the appointment of a friend of the court under this section shall, by resolution, fix a reasonable compensation for the friend of the court and make a reasonable allowance for necessary expenses, equipment, and supplies, payable out of the general fund of the county, upon approval of the appointing judge or judges.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 255, sec. 16, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 330, sec. 7, effective July 15, 1994. -- Amended 1980 Ky. Acts ch. 188, sec. 180, effective July 15, 1980. -- Amended 1974 Ky. Acts ch. 386, sec. 95. -- Amended 1968 Ky. Acts ch. 150, sec. 1. -- Amended 1966 Ky. Acts ch. 161, sec. 1. -- Amended 1964 Ky. Acts ch. 169, sec. 1. -- Amended 1956 Ky. Acts ch. 214, sec. 1. -- Amended 1948 Ky. Acts ch. 168, sec. 1. -- Created 1946 Ky. Acts ch. 166, sec. 1.

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403.100 Compensation of guardian ad litem when petitioner is victim of KRS Chapter 507, 508, 509, or 510 offense committed by respondent.

In any court proceeding conducted pursuant to KRS 403.010 to 403.350, if the respondent is incarcerated for a conviction pursuant to KRS Chapter 507, 508, 509, or 510, where the petitioner is the victim, the guardian ad litem shall be paid by the Finance and Administration Cabinet.

Effective: July 14, 2018

History: Created 2018 Ky. Acts ch. 27, sec. 1, effective July 14, 2018.

Legislative Research Commission Note (7/14/2018). 2018 Ky. Acts ch. 27, sec. 2 provided that this statute as created in Section 1 of that Act shall be known and may be cited as Jeanette's Law.

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403.110 Purpose of chapter.

This chapter shall be liberally construed and applied to promote its underlying purposes, which are to:

- (1) Strengthen and preserve the integrity of marriage and safeguard family relationships;
- (2) Promote the amicable settlement of disputes that have arisen between parties to a marriage;
- (3) Mitigate the potential harm to the spouses and their children caused by the process of legal dissolution of marriage;
- (4) Make reasonable provision for spouse and minor children during and after litigation; and
- (5) Make the law of legal dissolution of marriage effective for dealing with the realities of matrimonial experience by making irrevocable breakdown of the marriage relationship the sole basis for its dissolution.

History: Created 1972 Ky. Acts ch. 182, sec. 1.

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403.120 Marriage -- Court may declare invalid.

- (1) The Circuit Court shall enter its decree declaring the invalidity of a marriage entered into under the following circumstances:
 - (a) A party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of mental incapacity or deformity or because of the influence of alcohol, drugs, or other incapacitating substances, or a party was induced to enter into a marriage by force or duress, or by fraud involving the essentials of marriage;
 - (b) A party lacks the physical capacity to consummate the marriage by sexual intercourse, and the other party did not at the time the marriage was solemnized know of the incapacity;
 - (c) The marriage is prohibited.
- (2) A declaration of invalidity under paragraph (a), (b) or (c) of subsection (1) may be sought by any of the following persons and must be commenced within the times specified, but only for the causes set out in paragraph (a) may a declaration of invalidity be sought after the death of either party to the marriage:
 - (a) For a reason set forth in paragraphs (a) and (b) of subsection (1), by party or by the legal representative of the party who lacked capacity to consent, who was the offended party or did not know of the incapacity, no later than 90 days after the petitioner obtained knowledge of the described condition;
 - (b) For the reason set forth in paragraph (c) of subsection (1), by either party, no later than one (1) year after the petitioner obtained knowledge of the described condition.

History: Created 1972 Ky. Acts ch. 182, sec. 2.

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403.130 Rules of Civil Procedure to apply.

- (1) The Rules of Civil Procedure apply to all proceedings under this chapter, except as otherwise provided in this chapter.
- (2) A proceeding for dissolution of marriage, legal separation, or declaration of invalidity of marriage shall be entitled "In re the Marriage of and" A custody or support proceeding shall be entitled "In re the (Custody) (Support) of"
- (3) The initial pleading in all proceedings under this chapter shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under this chapter, shall be denominated as provided in the Rules of Civil Procedure.
- (4) In this chapter, "decree" includes "judgment."
- (5) A decree of dissolution or of legal separation, if made, shall not be awarded to one (1) of the parties, but shall provide that it affects the status previously existing between the parties in the manner decreed.

History: Created 1972 Ky. Acts ch. 182, sec. 3.

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403.135 Protection of personal identifiers in domestic relations cases.

- (1) If another section of this chapter or KRS 407.5311 or 407.5602 requires the provision of a personal identifier in a pleading, document, or exhibit filed with the court, the party making the filing shall provide the personal identifier in accordance with the Kentucky Rules of Civil Procedure.
- (2) The clerk of the court shall allow the unredacted sealed copy of the pleading, document, or exhibit containing personal identifiers to be accessed only by a party to the case, an attorney of record in the case, a judge of the court or other authorized court personnel, a duly authorized employee or agent of the Cabinet for Health and Family Services involved in child support matters attendant to the case, or a person authorized to view the copy by specific order of the court.
- (3) As used in this section, "personal identifier" means a Social Security number, name of minor child, date of birth, or financial account number.

Effective: June 24, 2015

History: Amended 2015 Ky. Acts ch. 18, sec. 73, effective June 24, 2015. -- Created 2006 Ky. Acts ch. 126, sec. 1, effective July 12, 2006.

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403.140 Marriage -- Court may enter decree of dissolution or separation.

- (1) The Circuit Court shall enter a decree of dissolution of marriage if:
 - (a) The court finds that one (1) of the parties, at the time the action was commenced, resided in this state, or was stationed in this state while a member of the armed services, and that the residence or military presence has been maintained for 180 days next preceding the filing of the petition;
 - (b) The court finds that the conciliation provisions of KRS 403.170 either do not apply or have been met;
 - (c) The court finds that the marriage is irretrievably broken; and
 - (d) To the extent it has jurisdiction to do so, the court has considered, approved or made provision for child custody, the support of any child of the marriage entitled to support, the maintenance of either spouse, and the disposition of property.
- (2) If a party requests a decree of legal separation rather than a decree of dissolution of marriage, the court shall grant the decree in that form unless the other party objects, in which latter event the other provisions of this chapter shall apply.

History: Created 1972 Ky. Acts ch. 182, sec. 4.

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403.150 Procedure -- Commencement of action, pleadings, abolition of existing defenses.

- (1) All proceedings under this chapter are commenced in the manner provided by the Rules of Civil Procedure.
- (2) The verified petition in a proceeding for dissolution of marriage or legal separation shall allege the marriage is irretrievably broken and shall set forth:
 - (a) The age, occupation, Social Security number, and residence of each party, provided in accordance with KRS 403.135, and his length of residence in this state. If domestic violence and abuse, as defined in KRS 403.720, is alleged by either party, the party filing the petition shall certify the existence and status of any domestic violence protective orders. The party filing the petition and alleging the abuse may substitute the party's attorney's address as the address of the party and any minor children;
 - (b) The date of the marriage and the place at which it was registered;
 - (c) That the parties are separated and the date on which the parties separated;
 - (d) The names, ages, Social Security numbers, and addresses, provided in accordance with KRS 403.135, of any living infant children of the marriage, and whether the wife is pregnant;
 - (e) Any arrangements as to custody, visitation, and support of the children and the maintenance of a spouse; and
 - (f) The relief sought.
- (3) Either or both parties to the marriage may initiate the proceeding.
- (4) If a proceeding is commenced by one (1) of the parties, the other party must be served in the manner provided by the Rules of Civil Procedure and may file a verified response.
- (5) Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.
- (6) The court may join additional parties proper for the exercise of its authority to implement this chapter.
- (7) When the wife is pregnant at the time the petition is filed, the court may continue the case until the pregnancy is terminated.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 126, sec. 2, effective July 12, 2006. -- Amended 1998 Ky. Acts ch. 255, sec. 17, effective July 15, 1998. -- Created 1972 Ky. Acts ch. 182, sec. 5. -- Amended 1992 Ky. Acts ch. 169, sec. 1, effective July 14, 1992.

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403.160 Temporary orders -- Maintenance, child support, injunction -- Disclosure of information on domestic violence or child abuse.

- (1) In a proceeding for dissolution of marriage or for legal separation, or in a proceeding for disposition of property or for maintenance or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for temporary maintenance. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.
- (2)
 - (a) In a proceeding for dissolution of marriage, legal separation, or child support, either party, with notice to the opposing party, may move for temporary child support. The motion shall be accompanied by an affidavit setting forth the number of children of the marriage and the information required to calculate the combined adjusted parental gross income set forth in KRS 403.212(2)(g), and the Social Security numbers, provided in accordance with KRS 403.135, of all parties subject to the motion. The court shall, within fourteen (14) days from the filing of said motion, order an amount of temporary child support based upon the child support guidelines as provided by law, and the ordered child support shall be retroactive to the date of the filing of the motion unless otherwise ordered by the court.
 - (b) Upon a showing of good cause, either party may move the court to enter an order for temporary child support without written or oral notice to the adverse party. After reviewing the affidavit required by paragraph (a) of this subsection, the court may issue a temporary child support order based upon the child support guidelines. The order shall provide that the order becomes effective seven (7) days following service of the order and movant's affidavit upon the adverse party unless the adverse party, within the seven (7) day period, files a motion for a hearing before the court. The motion for hearing shall be accompanied by the affidavit required by paragraph (a) of this subsection. Pending the hearing, the adverse party shall pay child support in an amount based upon the guidelines and the adverse party's affidavit. The child support order entered following the hearing shall be retroactive to the date of the filing of the motion for temporary support unless otherwise ordered by the court.
- (3) As part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary injunction or restraining order pursuant to the Rules of Civil Procedure.
- (4) If the court or agent of the court is made aware that there is reasonable evidence of domestic violence or child abuse, the court shall determine whether disclosure to any other person of the information could be harmful to the parent or child, and if the court determines that disclosure to any person could be harmful, the court and its agents shall not make the disclosure.
- (5) On the basis of the showing made and in conformity with KRS 403.200, the court may issue a temporary injunction or restraining order and an order for temporary maintenance in amounts and on terms just and proper in the circumstances.

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- (6) A temporary order or temporary injunction:
- (a) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding;
 - (b) May be revoked or modified before final decree on a showing of the facts necessary to revocation or modification under the circumstances; and
 - (c) Terminates when the final decree is entered or when the petition for dissolution or legal separation is voluntarily dismissed.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 126, sec. 3, effective July 12, 2006. -- Amended 2000 Ky. Acts ch. 430, sec. 15, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 255, sec. 18, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 365, sec. 5, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 330, sec. 9, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 418, sec. 7, effective July 13, 1990. -- Created 1972 Ky. Acts ch. 182, sec. 6.

Legislative Research Commission Note (7/14/2000). Although House Committee Amendment 1 (adopted by the House of Representatives and concurred in by the Senate) to the General Assembly version of Senate Bill 218 eliminated a new paragraph (c) in KRS 403.212(2) that had required a conforming amendment to this statute to change a cross-reference from "KRS 403.212(2)(g)" to "KRS 403.212(2)(h)" in subsection (2)(a) of this statute, the conforming amendment was not corrected in the floor amendment. Because of this omission and because of the context of the cross-reference, the change in subsection (2)(a) of this statute constitutes a manifest clerical or typographical error and has not been included in codification. See KRS 7.136(1)(h).

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403.170 Marriage -- Irretrievable breakdown.

- (1) If both of the parties by petition or otherwise have stated under oath or affirmation that the marriage is irretrievably broken, or one of the parties has so stated and the other has not denied it, the court, after hearing, shall make a finding whether the marriage is irretrievably broken. No decree shall be entered until the parties have lived apart for 60 days. Living apart shall include living under the same roof without sexual cohabitation. The court may order a conciliation conference as a part of the hearing.
- (2) If one of the parties has denied under oath or affirmation that the marriage is irretrievably broken, the court shall consider all relevant factors, including the circumstances that gave rise to filing the petition and the prospect of reconciliation, and shall:
 - (a) Make a finding whether the marriage is irretrievably broken; or
 - (b) Continue the matter for further hearing not fewer than 30 nor more than 60 days later, or as soon thereafter as the matter may be reached on the court's calendar, and may suggest to the parties that they seek counseling. The court, at the request of either party shall, or on its own motion may, order a conciliation conference. At the adjourned hearing the court shall make a finding whether the marriage is irretrievably broken.
- (3) A finding of irretrievable breakdown is a determination that there is no reasonable prospect of reconciliation.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 236, sec. 2, effective June 17, 1978. -- Created 1972 Ky. Acts ch. 182, sec. 7.

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403.180 Separation agreement -- Court may find unconscionable.

- (1) To promote amicable settlement of disputes between parties to a marriage attendant upon their separation or the dissolution of their marriage, the parties may enter into a written separation agreement containing provisions for maintenance of either of them, disposition of any property owned by either of them, and custody, support and visitation of their children.
- (2) In a proceeding for dissolution of marriage or for legal separation, the terms of the separation agreement, except those providing for the custody, support, and visitation of children, are binding upon the court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence produced by the parties, on their own motion or on request of the court, that the separation agreement is unconscionable.
- (3) If the court finds the separation agreement unconscionable, it may request the parties to submit a revised separation agreement or may make orders for the disposition of property, support, and maintenance.
- (4) If the court finds that the separation agreement is not unconscionable as to support, maintenance, and property:
 - (a) Unless the separation agreement provides to the contrary, its terms shall be set forth verbatim or incorporated by reference in the decree of dissolution or legal separation and the parties shall be ordered to perform them; or
 - (b) If the separation agreement provides that its terms shall not be set forth in the decree, the decree shall identify the separation agreement and state that the court has found the terms not unconscionable.
- (5) Terms of the agreement set forth in the decree are enforceable by all remedies available for enforcement of a judgment, including contempt, and are enforceable as contract terms.
- (6) Except for terms concerning the support, custody, or visitation of children, the decree may expressly preclude or limit modification of terms if the separation agreement so provides. Otherwise, terms of a separation agreement are automatically modified by modification of the decree.

History: Created 1972 Ky. Acts ch. 182, sec. 8.

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403.190 Disposition of property.

- (1) In a proceeding for dissolution of the marriage or for legal separation, or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall assign each spouse's property to him. It also shall divide the marital property without regard to marital misconduct in just proportions considering all relevant factors including:
 - (a) Contribution of each spouse to acquisition of the marital property, including contribution of a spouse as homemaker;
 - (b) Value of the property set apart to each spouse;
 - (c) Duration of the marriage; and
 - (d) Economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse having custody of any children.
- (2) For the purpose of this chapter, "marital property" means all property acquired by either spouse subsequent to the marriage except:
 - (a) Property acquired by gift, bequest, devise, or descent during the marriage and the income derived therefrom unless there are significant activities of either spouse which contributed to the increase in value of said property and the income earned therefrom;
 - (b) Property acquired in exchange for property acquired before the marriage or in exchange for property acquired by gift, bequest, devise, or descent;
 - (c) Property acquired by a spouse after a decree of legal separation;
 - (d) Property excluded by valid agreement of the parties; and
 - (e) The increase in value of property acquired before the marriage to the extent that such increase did not result from the efforts of the parties during marriage.
- (3) All property acquired by either spouse after the marriage and before a decree of legal separation is presumed to be marital property, regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, and community property. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection (2) of this section.
- (4) If the retirement benefits of one spouse are excepted from classification as marital property, or not considered as an economic circumstance during the division of marital property, then the retirement benefits of the other spouse shall also be excepted, or not considered, as the case may be. However, the level of exception provided to the spouse with the greater retirement benefit shall not exceed the level of exception provided to the other spouse. Retirement benefits, for the purposes of this subsection shall include retirement or disability allowances, accumulated contributions, or any other benefit of a retirement system or plan regulated by the

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Employees Retirement Income Security Act of 1974, or of a public retirement system administered by an agency of a state or local government, including deferred compensation plans created pursuant to KRS 18A.230 to 18A.275 or defined contribution or money purchase plans qualified under Section 401(a) of the Internal Revenue Code of 1954, as amended.


Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 328, secs. 1 and 2, effective July 15, 1996. -- Amended 1986 Ky. Acts ch. 441, sec. 1, effective July 15, 1986. -- Created 1972 Ky. Acts ch. 182, sec. 9.

Legislative Research Commission Note (7/15/96). This section was amended by 1996 Ky. Acts ch. 328, secs. 1 and 2 which do not appear to be in conflict and have been codified together.

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403.200 Maintenance -- Court may grant order for either spouse.

- (1) In a proceeding for dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of a marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse only if it finds that the spouse seeking maintenance:
 - (a) Lacks sufficient property, including marital property apportioned to him, to provide for his reasonable needs; and
 - (b) Is unable to support himself through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.
- (2) The maintenance order shall be in such amounts and for such periods of time as the court deems just, and after considering all relevant factors including:
 - (a) The financial resources of the party seeking maintenance, including marital property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;
 - (b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;
 - (c) The standard of living established during the marriage;
 - (d) The duration of the marriage;
 - (e) The age, and the physical and emotional condition of the spouse seeking maintenance; and
 - (f) The ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance.

History: Created 1972 Ky. Acts ch. 182, sec. 10.

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403.210 Recognition of "Family Support Act of 1988" mandate.

The General Assembly recognizes that under the federal "Family Support Act of 1988," P.L. 100-485, the Commonwealth of Kentucky is required to implement child support guidelines.

Effective: July 13, 1990

History: Repealed and reenacted 1990 Ky. Acts ch. 418, sec. 1, effective July 13, 1990.
-- Amended 1988 Ky. Acts ch. 258, sec. 7, effective July 15, 1988. -- Created 1972 Ky. Acts ch. 182, sec. 11.

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403.211 Action to establish or enforce child support -- Rebuttable presumption for award -- Allocation of child-care costs and health care expenses -- Order for payment of health care coverage -- Noncustodial parent's health plan -- Attachment of income -- Credit for disability payments.

- (1) An action to establish or enforce child support may be initiated by the parent, custodian, or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.
- (2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in KRS 403.212 shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.
- (3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:
 - (a) A child's extraordinary medical or dental needs;
 - (b) A child's extraordinary educational, job training, or special needs;
 - (c) Either parent's own extraordinary needs, such as medical expenses;
 - (d) The independent financial resources, if any, of the child or children;
 - (e) Combined monthly adjusted parental gross income in excess of the Kentucky child support guidelines;
 - (f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount. However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the Federal Social Security Act; and
 - (g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.
- (4) "Extraordinary" as used in this section shall be determined by the court in its discretion.
- (5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which would have established a higher amount of child support pursuant to the child support guidelines set forth in KRS 403.212.

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- (6) The court shall allocate between the parents, in proportion to their combined monthly adjusted parental gross income, reasonable and necessary child care costs incurred due to employment, job search, or education leading to employment, in addition to the amount ordered under the child support guidelines.
- (7) (a) Pursuant to 45 C.F.R. sec. 303.31(a)(2), for the purposes of this section, "health care coverage" includes fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage under which medical services could be provided to a dependent child. If health care coverage is reasonable in cost and accessible to either parent at the time the request for coverage is made, the court shall order the parent to obtain or maintain coverage, and the court shall allocate between the parents, in proportion to their combined monthly adjusted parental gross income, the cost of health care coverage for the child, in addition to the support ordered under the child support guidelines.
- (b) A parent, who has one hundred percent (100%) of the combined monthly adjusted parental gross income, shall be entitled to a reduction in gross income of the entire amount of premiums incurred and paid.
- (c) The court shall order the cost of health care coverage of the child to be paid by either or both parents of the child regardless of who has physical custody. The court order shall include:
1. A judicial directive designating which parent shall have financial responsibility for providing health care coverage for the dependent child, which shall include but not be limited to health care coverage, payments of necessary health care deductibles or copayments;
 2. If appropriate, cash medical support. "Cash medical support" means an amount to be paid toward the cost of health care coverage, fixed payments for ongoing medical costs, extraordinary medical expenses, or any combination thereof; and
 3. A statement providing that if the designated parent's health care coverage provides for covered services for dependent children beyond the age of majority, then any unmarried children up to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the insured parent for maintenance and support shall be covered.
- (d) If health care coverage is not reasonable in cost and accessible at the time the request for the coverage is made, the court order shall provide for cash medical support until health care coverage becomes reasonable in cost and accessible.
- (8) (a) For purposes of this section, "reasonable in cost" means that the cost of coverage to the responsible parent does not exceed five percent (5%) of his or her gross income. The five percent (5%) standard shall apply to the cost of adding the child to an existing policy, the difference in the cost between a single and a family policy, or the cost of acquiring a separate policy to cover the child. If the parties agree or the court finds good cause exists, the court

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may order health care coverage in excess of five percent (5%) of the parent's gross income.

- (b) For purposes of this section, "accessible" means that there are providers who meet the health care needs of the child and who are located no more than sixty (60) minutes or sixty (60) miles from the child's primary residence, except that nothing shall prohibit use of a provider located more than sixty (60) minutes or sixty (60) miles from the child's primary residence.
- (9) The cost of extraordinary medical expenses shall be allocated between the parties in proportion to their combined monthly adjusted parental gross incomes. "Extraordinary medical expenses" means uninsured expenses in excess of one hundred dollars (\$100) per child per calendar year. "Extraordinary medical expenses" includes but is not limited to the costs that are reasonably necessary for medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for professional counseling or psychiatric therapy for diagnosed medical disorders; and for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services.
- (10) The court order shall include the Social Security numbers, provided in accordance with KRS 403.135, of all parties subject to a support order.
- (11) In any case administered by the Cabinet for Health and Family Services, if the parent ordered to provide health care coverage is enrolled through an insurer but fails to enroll the child under family coverage, the other parent or the Cabinet for Health and Family Services may, upon application, enroll the child.
- (12) In any case administered by the cabinet, information received or transmitted shall not be published or be open for public inspection, including reasonable evidence of domestic violence or child abuse if the disclosure of the information could be harmful to the custodial parent or the child of the parent. Necessary information and records may be furnished as specified by KRS 205.175.
- (13) In the case in which a parent is obligated to provide health care coverage, and changes employment, and the new employer provides health care coverage, the Cabinet for Health and Family Services shall transfer notice of the provision for coverage for the child to the employer, which shall operate to enroll this child in the obligated parent's health plan, unless the obligated parent contests the notice as specified by KRS Chapter 13B.
- (14) Notwithstanding any other provision of this section, any wage or income shall not be exempt from attachment or assignment for the payment of current child support or owed or to-be-owed child support.
- (15) A payment of money received by a child as a result of a parental disability shall be credited against the child support obligation of the parent. A payment shall not be counted as income to either parent when calculating a child support obligation. An amount received in excess of the child support obligation shall be credited against a child support arrearage owed by the parent that accrued subsequent to the date of the parental disability, but shall not be applied to an arrearage that accrued prior to the date of disability. The date of disability shall be as determined by the paying agency.

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Effective: July 14, 2018

History: Amended 2018 Ky. Acts ch. 68, sec. 1, effective July 14, 2018. -- Amended 2009 Ky. Acts ch. 82, sec. 1, effective June 25, 2009. -- Amended 2006 Ky. Acts ch. 126, sec. 4, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 99, sec. 624, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 430, sec. 18, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 255, sec. 19, effective July 15, 1998; and ch. 426, sec. 579, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 328, sec. 3, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 330, sec. 10, effective July 15, 1994. -- Created 1990 Ky. Acts ch. 418, sec. 2, effective July 13, 1990.

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403.212 Child support guidelines -- Terms to be applied in calculations -- Table.

- (1) The following provisions and child support table shall be the child support guidelines established for the Commonwealth of Kentucky.
- (2) For the purposes of the child support guidelines:
 - (a) "Income" means actual gross income of the parent if employed to full capacity or potential income if unemployed or underemployed.
 - (b) "Gross income" includes income from any source, except as excluded in this subsection, and includes but is not limited to income from salaries, wages, retirement and pension funds, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, Supplemental Security Income (SSI), gifts, prizes, and alimony or maintenance received. Specifically excluded are benefits received from means-tested public assistance programs, including but not limited to public assistance as defined under Title IV-A of the Federal Social Security Act, and food stamps.
 - (c) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Straight-line depreciation, using Internal Revenue Service (IRS) guidelines, shall be the only allowable method of calculating depreciation expense in determining gross income. Specifically excluded from ordinary and necessary expenses for purposes of this guideline shall be investment tax credits or any other business expenses inappropriate for determining gross income for purposes of calculating child support. Income and expenses from self-employment or operation of a business shall be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. In most cases, this amount will differ from a determination of business income for tax purposes. Expense reimbursement or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business or personal use of business property or payments of expenses by a business, shall be counted as income if they are significant and reduce personal living expenses such as a company or business car, free housing, reimbursed meals, or club dues.
 - (d) If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income, except that a determination of potential income shall not be made for a parent who is physically or mentally incapacitated or is caring for a very young child, age three (3) or younger, for whom the parents owe a joint legal responsibility. Potential income shall be determined based upon employment potential and probable earnings level based on the obligor's or obligee's recent work history, occupational qualifications, and prevailing job opportunities and earnings levels in the community. A court may find a parent to be voluntarily

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unemployed or underemployed without finding that the parent intended to avoid or reduce the child support obligation.

- (e) "Imputed child support obligation" means the amount of child support the parent would be required to pay from application of the child support guidelines.
 - (f) Income statements of the parents shall be verified by documentation of both current and past income. Suitable documentation shall include, but shall not be limited to, income tax returns, paystubs, employer statements, or receipts and expenses if self-employed.
 - (g) "Combined monthly adjusted parental gross income" means the combined monthly gross incomes of both parents, less any of the following payments made by the parent:
 - 1. The amount of pre-existing orders for current maintenance for prior spouses to the extent payment is actually made and the amount of current maintenance, if any, ordered paid in the proceeding before the court;
 - 2. The amount of pre-existing orders of current child support for prior-born children to the extent payment is actually made under those orders; and
 - 3. A deduction for the support to the extent payment is made, if a parent is legally responsible for and is actually providing support for other prior-born children who are not the subject of a particular proceeding. If the prior-born children reside with that parent, an "imputed child support obligation" shall be allowed in the amount which would result from application of the guidelines for the support of the prior-born children.
 - (h) "Split custody arrangement" means a situation where each parent is the residential custodian for one (1) or more children for whom the parents share a joint legal responsibility.
- (3) The child support obligation set forth in the child support guidelines table shall be divided between the parents in proportion to their combined monthly adjusted parental gross income.
 - (4) The child support obligation shall be the appropriate amount for the number of children in the table for whom the parents share a joint legal responsibility. The minimum amount of child support shall be sixty dollars (\$60) per month.
 - (5) The court may use its judicial discretion in determining child support in circumstances where combined adjusted parental gross income exceeds the uppermost levels of the guideline table.
 - (6) The child support obligation in a split custody arrangement shall be calculated in the following manner:
 - (a) Two (2) separate child support obligation worksheets shall be prepared, one (1) for each household, using the number of children born of the relationship in each separate household, rather than the total number of children born of the relationship.
 - (b) The nonresidential custodian with the greater monthly obligation amount shall

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pay the difference between the obligation amounts, as determined by the worksheets, to the other parent.

(7) The child support guidelines table is as follows:

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE	FOUR	FIVE	SIX OR MORE
\$ 0	\$ 60	\$ 60	\$ 60	\$ 60	\$ 60	\$ 60
100	60	60	60	60	60	60
200	70	70	70	70	70	70
300	80	80	80	80	80	80
400	90	90	90	90	90	90
500	100	105	110	115	120	125
600	120	125	130	135	140	145
700	140	156	161	166	171	176
800	160	203	208	213	218	223
900	180	261	266	271	276	281
1,000	195	303	325	330	335	340
1,100	212	324	384	389	394	399
1,200	229	346	433	446	451	456
1,300	246	367	460	504	510	515
1,400	262	392	491	554	576	582
1,500	277	417	522	588	642	650
1,600	293	437	548	618	674	717
1,700	308	458	574	647	706	755
1,800	322	478	599	675	736	788
1,900	336	495	620	699	763	816
2,000	350	512	642	723	789	844
2,100	364	529	663	747	815	872
2,200	376	546	684	771	841	900
2,300	389	563	706	795	868	928
2,400	401	580	727	819	894	956
2,500	413	597	749	843	920	984
2,600	424	614	770	867	946	1,012
2,700	435	630	790	889	970	1,038
2,800	445	646	809	911	994	1,064
2,900	455	662	829	934	1,019	1,090
3,000	465	677	849	956	1,043	1,116
3,100	475	693	868	978	1,067	1,142
3,200	485	709	888	1,001	1,092	1,168
3,300	495	725	908	1,023	1,116	1,194
3,400	506	741	928	1,045	1,140	1,220

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3,500	516	757	947	1,067	1,164	1,246
3,600	526	773	967	1,090	1,189	1,272
3,700	536	790	988	1,113	1,215	1,299
3,800	548	808	1,011	1,139	1,243	1,329
3,900	559	826	1,033	1,164	1,270	1,359
4,000	571	844	1,056	1,190	1,298	1,388
4,100	580	862	1,078	1,215	1,326	1,418
4,200	592	880	1,101	1,240	1,353	1,448
4,300	603	898	1,123	1,266	1,381	1,477
4,400	615	916	1,146	1,291	1,409	1,507
4,500	626	933	1,161	1,316	1,435	1,535
4,600	636	949	1,181	1,338	1,459	1,561
4,700	647	964	1,200	1,360	1,483	1,586
4,800	657	980	1,220	1,381	1,507	1,612
4,900	667	995	1,239	1,403	1,531	1,637
5,000	676	1,010	1,257	1,424	1,554	1,661
5,100	686	1,025	1,275	1,444	1,576	1,685
5,200	695	1,039	1,294	1,465	1,599	1,709
5,300	705	1,054	1,312	1,486	1,621	1,733
5,400	714	1,069	1,330	1,506	1,644	1,757
5,500	724	1,083	1,348	1,527	1,666	1,781
5,600	733	1,098	1,367	1,548	1,689	1,805
5,700	743	1,113	1,385	1,568	1,712	1,829
5,800	753	1,127	1,403	1,589	1,734	1,853
5,900	762	1,142	1,421	1,610	1,757	1,877
6,000	772	1,157	1,440	1,630	1,779	1,901
6,100	781	1,171	1,458	1,651	1,802	1,926
6,200	791	1,186	1,476	1,672	1,824	1,950
6,300	800	1,198	1,498	1,690	1,844	1,970
6,400	808	1,209	1,511	1,705	1,860	1,988
6,500	816	1,219	1,524	1,720	1,876	2,005
6,600	823	1,230	1,538	1,735	1,893	2,023
6,700	830	1,240	1,551	1,750	1,909	2,040
6,800	837	1,251	1,564	1,764	1,925	2,058
6,900	844	1,261	1,577	1,779	1,942	2,075
7,000	851	1,272	1,591	1,794	1,958	2,093
7,100	858	1,282	1,604	1,809	1,975	2,110
7,200	865	1,293	1,617	1,824	1,991	2,127
7,300	872	1,303	1,630	1,839	2,007	2,145
7,400	879	1,313	1,644	1,854	2,024	2,162
7,500	885	1,324	1,657	1,869	2,040	2,179
7,600	891	1,333	1,668	1,881	2,053	2,194
7,700	896	1,342	1,679	1,893	2,066	2,208
7,800	901	1,350	1,691	1,905	2,079	2,223
7,900	907	1,359	1,702	1,917	2,093	2,238

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8,000	912	1,368	1,713	1,929	2,106	2,252
8,100	917	1,377	1,724	1,941	2,119	2,267
8,200	922	1,386	1,736	1,953	2,133	2,281
8,300	928	1,395	1,747	1,965	2,146	2,296
8,400	933	1,404	1,758	1,977	2,159	2,311
8,500	938	1,413	1,769	1,989	2,173	2,325
8,600	944	1,421	1,780	2,002	2,186	2,340
8,700	949	1,430	1,792	2,014	2,199	2,354
8,800	954	1,437	1,800	2,024	2,210	2,366
8,900	958	1,444	1,809	2,033	2,220	2,376
9,000	962	1,450	1,817	2,042	2,230	2,387
9,100	966	1,457	1,825	2,052	2,241	2,398
9,200	971	1,463	1,833	2,061	2,251	2,408
9,300	975	1,470	1,842	2,070	2,261	2,419
9,400	979	1,476	1,850	2,079	2,271	2,430
9,500	983	1,483	1,858	2,089	2,281	2,440
9,600	988	1,489	1,866	2,098	2,291	2,451
9,700	992	1,496	1,874	2,107	2,301	2,461
9,800	996	1,502	1,883	2,117	2,311	2,472
9,900	1,000	1,508	1,891	2,126	2,321	2,483
10,000	1,005	1,515	1,899	2,165	2,331	2,493
10,400	1,022	1,541	1,932	2,202	2,372	2,536
10,500	1,027	1,548	1,940	2,212	2,382	2,546
10,600	1,032	1,554	1,948	2,221	2,392	2,557
10,700	1,036	1,561	1,956	2,230	2,402	2,567
10,800	1,040	1,567	1,965	2,240	2,412	2,578
10,900	1,044	1,573	1,973	2,249	2,422	2,589
11,000	1,049	1,580	1,981	2,258	2,432	2,599
11,100	1,053	1,587	1,989	2,268	2,443	2,610
11,200	1,058	1,593	1,997	2,277	2,453	2,620
11,300	1,062	1,600	2,005	2,286	2,463	2,631
11,400	1,066	1,606	2,013	2,295	2,473	2,642
11,500	1,070	1,613	2,021	2,305	2,483	2,652
11,600	1,075	1,619	2,029	2,314	2,493	2,663
11,700	1,079	1,626	2,037	2,323	2,503	2,673
11,800	1,084	1,633	2,046	2,333	2,513	2,684
11,900	1,088	1,639	2,054	2,342	2,523	2,695
12,000	1,093	1,646	2,062	2,351	2,533	2,705
12,100	1,097	1,653	2,070	2,361	2,544	2,716
12,200	1,102	1,659	2,078	2,370	2,554	2,726
12,300	1,106	1,666	2,086	2,379	2,564	2,737
12,400	1,110	1,672	2,094	2,388	2,574	2,748
12,500	1,114	1,679	2,102	2,398	2,584	2,758
12,600	1,119	1,685	2,110	2,407	2,594	2,769
12,700	1,123	1,692	2,118	2,416	2,604	2,779

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12,800	1,128	1,699	2,127	2,426	2,614	2,790
12,900	1,132	1,705	2,135	2,435	2,624	2,801
13,000	1,137	1,712	2,143	2,444	2,634	2,811
13,100	1,141	1,719	2,151	2,454	2,645	2,822
13,200	1,146	1,725	2,159	2,463	2,665	2,832
13,300	1,150	1,732	2,167	2,472	2,665	2,843
13,400	1,154	1,738	2,175	2,481	2,675	2,854
13,500	1,158	1,745	2,183	2,491	2,685	2,864
13,600	1,163	1,751	2,191	2,500	2,695	2,875
13,700	1,167	1,758	2,199	2,509	2,705	2,885
13,800	1,172	1,765	2,208	2,519	2,715	2,896
13,900	1,176	1,771	2,216	2,528	2,725	2,907
14,000	1,181	1,778	2,224	2,537	2,735	2,917
14,100	1,185	1,785	2,232	2,547	2,746	2,928
14,200	1,190	1,791	2,240	2,556	2,756	2,938
14,300	1,194	1,798	2,248	2,565	2,766	2,949
14,400	1,198	1,804	2,256	2,574	2,776	2,960
14,500	1,202	1,811	2,264	2,584	2,786	2,970
14,600	1,207	1,817	2,272	2,593	2,796	2,981
14,700	1,211	1,824	2,280	2,602	2,806	2,991
14,800	1,216	1,831	2,289	2,612	2,816	3,002
14,900	1,220	1,837	2,297	2,621	2,826	3,013
15,000	1,225	1,844	2,305	2,630	2,836	3,023

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 430, sec. 9, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 100, sec. 8, effective July 15, 1998; and ch. 255, sec. 20, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 365, sec. 6, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 330, sec. 11, effective July 15, 1994. -- Created 1990 Ky. Acts ch. 418, sec. 3, effective July 13, 1990.

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403.213 Criteria for modification of orders for child support and for health care -- Effects of emancipation and death of obligated parent -- Commission to review guidelines.

- (1) The Kentucky child support guidelines may be used by the parent, custodian, or agency substantially contributing to the support of the child as the basis for periodic updates of child support obligations and for modification of child support orders for health care. The provisions of any decree respecting child support may be modified only as to installments accruing subsequent to the filing of the motion for modification and only upon a showing of a material change in circumstances that is substantial and continuing.
- (2) Application of the Kentucky child support guidelines to the circumstances of the parties at the time of the filing of a motion or petition for modification of the child support order which results in equal to or greater than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed to be a material change in circumstances. Application which results in less than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed not to be a material change in circumstances. For the one (1) year period immediately following enactment of this statute, the presumption of material change shall be a twenty-five percent (25%) change in the amount of child support due rather than the fifteen percent (15%) stated above.
- (3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child shall be terminated by emancipation of the child unless the child is a high school student when he reaches the age of eighteen (18). In cases where the child becomes emancipated because of age, but not due to marriage, while still a high school student, the court-ordered support shall continue while the child is a high school student, but not beyond completion of the school year during which the child reaches the age of nineteen (19) years. Provisions for the support of the child shall not be terminated by the death of a parent obligated to support the child. If a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances. Emancipation of the child shall not terminate the obligation of child support arrearages that accrued while the child was an unemancipated minor.
- (4) The child support guidelines table shall be reviewed at least once every four (4) years by a commission consisting of the following persons:
 - (a) The secretary of the Cabinet for Health and Family Services or a supervisory staff person designated by him;
 - (b) Two (2) members of the Kentucky Bar Association who have at least six (6) consecutive years' experience and are presently practicing domestic relations cases, one (1) member from a metropolitan or large urban area and one (1) member from a less populated area;
 - (c) Two (2) Circuit Judges appointed by the Chief Justice of the Kentucky Supreme Court, one (1) from a metropolitan or large urban area, and one (1) from a less populated area;

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- (d) One (1) District Judge appointed by the Chief Justice of the Kentucky Supreme Court;
- (e) Two (2) county attorneys appointed by the president of the County Attorneys Association, one (1) from a metropolitan or large urban area and one (1) from a less populated area;
- (f) The Attorney General or his designee, who shall be an attorney from his office;
- (g) One (1) person who is a custodial parent;
- (h) One (1) person who is a noncustodial parent;
- (i) One (1) person who is a parent with split custody; and
- (j) One (1) child advocate.

The members designated in paragraphs (g) to (j) of this subsection shall be appointed by the Governor from a list of three (3) names for each category submitted by the Cabinet for Health and Family Services. If the status of one (1) of these members changes, the member shall be replaced through appointment by the Governor from a list of three (3) names submitted by the cabinet.

- (5) The commission shall make a recommendation to the Kentucky General Assembly to ensure that the child support guidelines table results in a determination of appropriate child support amounts.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 99, sec. 625, effective June 20, 2005. -- Amended 2001 Ky. Acts ch. 161, sec. 1, effective March 21, 2001. -- Amended 2000 Ky. Acts ch. 430, sec. 10, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 426, sec. 580, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 330, sec. 12, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 434, sec. 3, effective July 14, 1992. -
- Created 1990 Ky. Acts ch. 418, sec. 4, effective July 13, 1990.

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403.215 Assignment of wages for child support obligations.

After July 15, 1990, any new or modified order or decree which contains provisions for the support of a minor child or minor children, shall provide for a wage assignment which shall begin immediately except for good cause shown, and which shall be paid based upon the payment schedule of wages of the employer to whom the wage assignment is directed, and at a minimum, on a monthly basis. If good cause is shown, the wage assignment shall take effect when an arrearage accrues that is equal to the amount of support payable for one (1) month, pursuant to KRS 405.465.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 255, sec. 50, effective July 15, 1998. -- Amended 1990 Ky. Acts ch. 418, sec. 14, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 411, sec. 3, effective July 15, 1988. -- Created 1986 Ky. Acts ch. 487, sec. 11, effective July 15, 1986.

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403.220 Costs of action and attorney's fees.

The court from time to time after considering the financial resources of both parties may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after entry of judgment. The court may order that the amount be paid directly to the attorney, who may enforce the order in his name.

History: Created 1972 Ky. Acts ch. 182, sec. 12.

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**403.230 Legal separation -- Court may convert, to a decree of dissolution --
Restoration of former name.**

- (1) No earlier than one year after entry of a decree of legal separation, the court on motion of either party shall convert the decree to a decree of dissolution of marriage.
- (2) Upon request by a wife whose marriage is dissolved or declared invalid, the court may, and if there are no children of the parties shall, order her maiden name or a former name restored.

History: Created 1972 Ky. Acts ch. 182, sec. 13.

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**403.240 Decree or temporary order -- Failure to comply with -- Good-cause defense
-- Attorney's fees.**

- (1) If a party fails to comply with a provision of a decree or temporary order or injunction, the obligation of the other party to make payments for support or maintenance or to permit visitation is not suspended; but he may move the court to grant an appropriate order.
- (2) The failure of either party, without good cause, to comply with a provision of a decree or temporary order or injunction, including a provision with respect to visitation or child support shall constitute contempt of court, and the court shall remedy the failure to comply.
- (3) Good cause not to comply with a provision of a decree or temporary order or injunction with respect to visitation shall include mutual consent of the parties, reasonable belief by either party that there exists the possibility of endangerment to the physical, mental, moral, or emotional health of the child, or endangerment to the physical safety of either party, or extraordinary circumstances as determined by the court.
- (4) The court may, if no reasonable cause is found for denial of visitation, award attorney's fees to the prevailing party.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 414, sec. 2, effective July 14, 1992. -- Amended 1980 Ky. Acts ch. 188, sec. 286, effective July 15, 1980. -- Created 1972 Ky. Acts ch. 182, sec. 14.

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403.250 Modification or termination of provisions for maintenance and property disposition.

- (1) Except as otherwise provided in subsection (6) of KRS 403.180, the provisions of any decree respecting maintenance may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.
- (2) Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

Effective: July 13, 1990

History: Amended 1990 Ky. Acts ch. 418, sec. 5, effective July 13, 1990. -- Created 1972 Ky. Acts ch. 182, sec. 15.

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403.260 Repealed, 1980.

Catchline at repeal: Custody -- Jurisdiction, commencement of proceedings.

History: Repealed 1980 Ky. Acts ch. 69, sec. 25, effective July 15, 1980. -- Amended
1976 Ky. Acts ch. 241, sec. 1. -- Created 1972 Ky. Acts ch. 182, sec. 16.

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403.270 Custodial issues -- Best interests of child shall determine -- Rebuttable presumption that joint custody and equally shared parenting time is in child's best interests -- De facto custodian.

- (1) (a) As used in this chapter and KRS 405.020, unless the context requires otherwise, "de facto custodian" means a person who has been shown by clear and convincing evidence to have been the primary caregiver for, and financial supporter of, a child who has resided with the person for a period of six (6) months or more if the child is under three (3) years of age and for a period of one (1) year or more if the child is three (3) years of age or older or has been placed by the Department for Community Based Services. Any period of time after a legal proceeding has been commenced by a parent seeking to regain custody of the child shall not be included in determining whether the child has resided with the person for the required minimum period.
- (b) A person shall not be a de facto custodian until a court determines by clear and convincing evidence that the person meets the definition of de facto custodian established in paragraph (a) of this subsection. Once a court determines that a person meets the definition of de facto custodian, the court shall give the person the same standing in custody matters that is given to each parent under this section and KRS 403.280, 403.340, 403.350, 403.822, and 405.020.
- (2) The court shall determine custody in accordance with the best interests of the child and equal consideration shall be given to each parent and to any de facto custodian. Subject to KRS 403.315, there shall be a presumption, rebuttable by a preponderance of evidence, that joint custody and equally shared parenting time is in the best interest of the child. If a deviation from equal parenting time is warranted, the court shall construct a parenting time schedule which maximizes the time each parent or de facto custodian has with the child and is consistent with ensuring the child's welfare. The court shall consider all relevant factors including:
 - (a) The wishes of the child's parent or parents, and any de facto custodian, as to his or her custody;
 - (b) The wishes of the child as to his or her custodian, with due consideration given to the influence a parent or de facto custodian may have over the child's wishes;
 - (c) The interaction and interrelationship of the child with his or her parent or parents, his or her siblings, and any other person who may significantly affect the child's best interests;
 - (d) The motivation of the adults participating in the custody proceeding;
 - (e) The child's adjustment and continuing proximity to his or her home, school, and community;
 - (f) The mental and physical health of all individuals involved;
 - (g) A finding by the court that domestic violence and abuse, as defined in KRS 403.720, has been committed by one (1) of the parties against a child of the parties or against another party. The court shall determine the extent to which

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the domestic violence and abuse has affected the child and the child's relationship to each party, with due consideration given to efforts made by a party toward the completion of any domestic violence treatment, counseling, or program;

- (h) The extent to which the child has been cared for, nurtured, and supported by any de facto custodian;
 - (i) The intent of the parent or parents in placing the child with a de facto custodian;
 - (j) The circumstances under which the child was placed or allowed to remain in the custody of a de facto custodian, including whether the parent now seeking custody was previously prevented from doing so as a result of domestic violence as defined in KRS 403.720 and whether the child was placed with a de facto custodian to allow the parent now seeking custody to seek employment, work, or attend school; and
 - (k) The likelihood a party will allow the child frequent, meaningful, and continuing contact with the other parent or de facto custodian, except that the court shall not consider this likelihood if there is a finding that the other parent or de facto custodian engaged in domestic violence and abuse, as defined in KRS 403.720, against the party or a child and that a continuing relationship with the other parent will endanger the health or safety of either that party or the child.
- (3) The abandonment of the family residence by a custodial party shall not be considered where said party was physically harmed or was seriously threatened with physical harm by his or her spouse, when such harm or threat of harm was causally related to the abandonment.
- (4) If the court grants custody to a de facto custodian, the de facto custodian shall have legal custody under the laws of the Commonwealth.

Effective: July 14, 2018

History: Amended 2018 Ky. Acts ch. 198, sec. 1, effective July 14, 2018. -- Amended 2004 Ky. Acts ch. 133, sec. 42, effective July 13, 2004. -- Amended 2000 Ky. Acts ch. 14, sec. 51, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 250, sec. 1, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 169, sec. 2, effective July 14, 1992. -- Amended 1980 Ky. Acts ch. 158, sec. 1, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 86, sec. 1, effective June 17, 1978; and ch. 369, sec. 1, effective June 17, 1978. -- Created 1972 Ky. Acts ch. 182, sec. 17.

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403.280 Temporary custody orders.

- (1) A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in KRS 403.350. The court may award temporary custody under the standards of KRS 403.270 after a hearing, or, if there is no objection, solely on the basis of the affidavits. If the parents or a de facto custodian joined under subsection (9) of this section present a temporary custody agreement and mutually agreed plan for parenting time, and the court confirms that the agreement adequately provides for the welfare of the child, the agreement shall become the temporary custody order of the court.
- (2) Subject to KRS 403.315, in making an order for temporary custody, there shall be a presumption, rebuttable by preponderance of evidence, that it is in the best interest of the child for the parents or a de facto custodian joined under subsection (9) of this section to have temporary joint custody and share equally in parenting time.
- (3) If a deviation from equal parenting time is warranted, the court shall construct a parenting time schedule which maximizes the time each parent or de facto custodian joined under subsection (9) of this section has with the child and is consistent with ensuring the child's welfare.
- (4) Each temporary custody order shall include specific findings of fact and conclusions of law, except when the court confirms the agreement of the parties.
- (5) Any temporary custody order shall address the circumstance in which physical possession of the child will be exchanged.
- (6) Subject to KRS 403.320(4) and 403.340(5), modification of a temporary custody order may be sought when there is a material and substantial change in the circumstances of the parents, de facto custodian, or child.
- (7) If a proceeding for dissolution of marriage or legal separation is dismissed, any temporary custody order is vacated unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parents and the best interests of the child require that a custody decree be issued.
- (8) If a custody proceeding commenced in the absence of a petition for dissolution of marriage or legal separation under KRS 403.822(1)(a) or (b) is dismissed, any temporary custody order is vacated.
- (9) If a court determines by clear and convincing evidence that a person is a de facto custodian, the court shall join that person in the action, as a party needed for just adjudication under Rule 19 of the Kentucky Rules of Civil Procedure.

Effective: July 14, 2018

History: Amended 2018 Ky. Acts ch. 198, sec. 2, effective July 14, 2018. -- Amended 2017 Ky. Acts ch. 163, sec. 1, effective June 29, 2017. -- Amended 2004 Ky. Acts ch. 133, sec. 43, effective July 13, 2004. -- Amended 1998 Ky. Acts ch. 250, sec. 2, effective July 15, 1998. -- Created 1972 Ky. Acts ch. 182, sec. 18.

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403.290 Child: court may interview, court may seek advice of professional personnel.

- (1) The court may interview the child in chambers to ascertain the child's wishes as to his custodian and as to visitation. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made and to be part of the record in the case.
- (2) The court may seek the advice of professional personnel, whether or not employed by the court on a regular basis. The advice given shall be in writing and made available by the court to counsel upon request. Counsel may examine as a witness any professional personnel consulted by the court.

History: Created 1972 Ky. Acts ch. 182, sec. 19.

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403.300 Investigation: court may order in custody proceedings -- Attorney to receive copy.

- (1) In contested custody proceedings, and in other custody proceedings if a parent or the child's custodian so requests, the court may order an investigation and report concerning custodial arrangements for the child. The investigation and report may be made by the friend of the court or such other agency as the court may select.
- (2) In preparing his report concerning a child, the investigator may consult any person who may have information about the child and his potential custodial arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if he has reached the age of 16, unless the court finds that he lacks mental capacity to consent. If the requirements of subsection (3) are fulfilled, the investigator's report may be received in evidence at the hearing.
- (3) The clerk shall mail the investigator's report to counsel and to any party not represented by counsel at least 10 days prior to the hearing. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data, and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (2), and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person whom he has consulted for cross-examination. A party may not waive his right of cross-examination prior to the hearing.

History: Created 1972 Ky. Acts ch. 182, sec. 20.

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403.310 Hearings: custody proceedings shall receive priority.

- (1) Custody proceedings shall receive priority in being set for hearing.
- (2) The court may tax as costs the payment of necessary travel and other expenses incurred by any person whose presence at the hearing the court deems necessary to determine the best interests of the child.
- (3) The court without a jury shall determine questions of law and fact. If it finds that a public hearing may be detrimental to the child's best interests, the court may exclude the public from a custody hearing, but may admit any person who has a direct and legitimate interest in the particular case or a legitimate educational or research interest in the work of the court.
- (4) If the court finds it necessary to protect the child's welfare that the record of any interview, report, investigation, or testimony in a custody proceeding be kept secret, the court may make an appropriate order sealing the record.

History: Created 1972 Ky. Acts ch. 182, sec. 21.

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403.315 Presumption that joint custody and equally shared parenting time is in best interest of child inapplicable if domestic violence order entered against a party.

When determining or modifying a custody order pursuant to KRS 403.270, 403.280, 403.340, or 403.740, the court shall consider the safety and well-being of the parties and of the children. If a domestic violence order is being or has been entered against a party by another party or on behalf of a child at issue in the custody hearing, the presumption that joint custody and equally shared parenting time is in the best interest of the child shall not apply as to the party against whom the domestic violence order is being or has been entered. The court shall weigh all factors set out in KRS 403.270(2) in determining the best interest of the child.

Effective: July 14, 2018

History: Created 2018 Ky. Acts ch. 198, sec. 5, effective July 14, 2018.

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**403.320 Visitation of minor child -- Military deployment of parent or custodian --
Visitation rights of custodial relatives following termination of parental rights
of others.**

- (1) A parent not granted custody of the child and not awarded shared parenting time under the presumption specified in KRS 403.270(2), 403.280(2), or 403.340(6) is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger seriously the child's physical, mental, moral, or emotional health. Upon request of either party, the court shall issue orders which are specific as to the frequency, timing, duration, conditions, and method of scheduling visitation and which reflect the development age of the child.
- (2) If domestic violence and abuse, as defined in KRS 403.720, has been alleged, the court shall, after a hearing, determine the visitation arrangement, if any, which would not endanger seriously the child's or the custodial parent's physical, mental, or emotional health.
- (3) The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child; but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger seriously the child's physical, mental, moral, or emotional health.
- (4) (a) Except as provided in paragraph (b) of this subsection, any court-ordered modification of a child visitation decree, based in whole or in part on:
 1. The active duty of a parent or a de facto custodian as a regular member of the United States Armed Forces deployed outside the United States; or
 2. Any federal active duty of a parent or a de facto custodian as a member of a state National Guard or a Reserve component;shall be temporary and shall revert back to the previous child visitation decree at the end of the deployment outside the United States or the federal active duty, as appropriate.
- (b) A parent or de facto custodian identified in paragraph (a) of this subsection may consent to a modification of a child visitation decree that continues past the end of the deployment outside the United States or the federal active duty, as appropriate.
- (5) Under circumstances where the court finds, by clear and convincing evidence, it is in the best interest of the child, any relative, by blood or affinity, that was previously granted temporary custody pursuant to the provisions of KRS 620.090 may be granted reasonable noncustodial parental visitation rights by a Circuit Court or Family Court as an intervenor or by original action. Once the relative has been granted visitation pursuant to this subsection, those rights shall not be adversely affected by the termination of custodial or parental rights of an individual who has permanent custody of the child unless the court determines that termination of the visitation rights are in the best interests of the child. The action shall be brought in the county in which the temporary or permanent custody order was entered or where the child resides.

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Effective: July 14, 2018

History: Amended 2018 Ky. Acts ch. 198, sec. 3, effective July 14, 2018. -- Amended 2013 Ky. Acts ch. 79, sec. 1, effective March 22, 2013. -- Amended 1992 Ky. Acts ch. 169, sec. 3, effective July 14, 1992; and ch. 414, sec. 1, effective July 14, 1992. -- Created 1972 Ky. Acts ch. 182, sec. 22.

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403.322 Custody, visitation, and inheritance rights denied parent convicted of felony sexual offense from which victim delivered a child -- Waiver -- child support obligation.

- (1) The Commonwealth recognizes that certain victims of sexual assault may conceive a child as a result of the sexual assault and may choose to bear and raise the child. The Commonwealth also recognizes that victims of a sexual assault who have elected to raise a child born as a result of the sexual assault, as well as that child, may suffer serious emotional or physical trauma if the perpetrator of the assault is granted parental rights with the child.
- (2) Except as provided in subsection (3) of this section, any person who has been convicted of a felony offense under KRS Chapter 510, in which the victim of that offense has conceived and delivered a child, shall not have custody or visitation rights, or the rights of inheritance under KRS Chapter 391 with respect to that child.
- (3) The mother of the child may waive the protection afforded under subsection (2) of this section regarding visitation and request that the court grant reasonable visitation rights with the child if paternity has been acknowledged.
- (4) Unless waived by the mother and, if applicable, the public agency substantially contributing to the support of the child, a court shall establish a child support obligation against the father of the child pursuant to KRS 403.211.

Effective: July 15, 2014

History: Created 2014 Ky. Acts ch. 130, sec. 1, effective July 15, 2014.

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403.325 Visitation denied parent convicted of homicide of other parent -- Exception -- Hearing required.

- (1) Notwithstanding the provisions of KRS 403.320, if a parent of a child is convicted of murder or manslaughter in the first degree of the other parent, a court shall not grant the convicted parent visitation rights with respect to that child unless the court, through a hearing, determines that visitation is in the child's best interest.
- (2) If the court later modifies a denial of visitation to grant visitation, the court shall do so only after a hearing which establishes that visitation is in the child's best interest.
- (3) In any hearing conducted under subsection (1) or (2) of this section:
 - (a) Jurisdiction shall lie with the Circuit Court of the county where the child resides; and
 - (b) The convicted parent, to obtain visitation, shall have to meet the burden of proving that visitation is in the child's best interest.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 58, sec. 1, effective July 14, 2000.

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403.330 Judicial supervision of custody decree or agreement.

- (1) Except as otherwise agreed by the parties in writing at the time of the custody decree, the custodian may determine the child's upbringing, including his education, health care, and religious training, unless the court after hearing, finds, upon motion by the noncustodial parent, that in the absence of a specific limitation of the custodian's authority, the child's physical health would be endangered or his emotional development significantly impaired.
- (2) If both parents or all contestants agree to the order, or if the court finds that in the absence of the order the child's physical health would be endangered or his emotional development significantly impaired, the court may order the local probation, another appropriate local entity, or if currently involved in the case, the child welfare department to exercise continuing supervision over the case to assure that the custodial or visitation terms of the decree are carried out.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 338, sec. 1, effective July 15, 1998. -- Created 1972 Ky. Acts ch. 182, sec. 23.

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403.340 Modification of custody decree -- Modification based on active duty deployment to revert back on parent or custodian's return.

- (1) As used in this section, "custody" means sole or joint custody, whether ordered by a court or agreed to by the parties.
- (2) No motion to modify a custody decree shall be made earlier than two (2) years after its date, unless the court permits it to be made on the basis of affidavits that there is reason to believe that:
 - (a) The child's present environment may endanger seriously his physical, mental, moral, or emotional health; or
 - (b) The custodian appointed under the prior decree has placed the child with a de facto custodian.
- (3) If a court of this state has jurisdiction pursuant to the Uniform Child Custody Jurisdiction Act, the court shall not modify a prior custody decree unless after hearing it finds, upon the basis of facts that have arisen since the prior decree or that were unknown to the court at the time of entry of the prior decree, that a change has occurred in the circumstances of the child or his custodian, and that the modification is necessary to serve the best interests of the child. When determining if a change has occurred and whether a modification of custody is in the best interests of the child, the court shall consider the following:
 - (a) Whether the custodian agrees to the modification;
 - (b) Whether the child has been integrated into the family of the petitioner with consent of the custodian;
 - (c) The factors set forth in KRS 403.270(2) to determine the best interests of the child;
 - (d) Whether the child's present environment endangers seriously his physical, mental, moral, or emotional health;
 - (e) Whether the harm likely to be caused by a change of environment is outweighed by its advantages to him; and
 - (f) Whether the custodian has placed the child with a de facto custodian.
- (4) In determining whether a child's present environment may endanger seriously his physical, mental, moral, or emotional health, the court shall consider all relevant factors, including, but not limited to:
 - (a) The interaction and interrelationship of the child with his parent or parents, his de facto custodian, his siblings, and any other person who may significantly affect the child's best interests;
 - (b) The mental and physical health of all individuals involved;
 - (c) Repeated or substantial failure, without good cause as specified in KRS 403.240, of either parent to observe visitation, child support, or other provisions of the decree which affect the child, except that modification of custody orders shall not be made solely on the basis of failure to comply with visitation or child support provisions, or on the basis of which parent is more likely to allow visitation or pay child support;

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- (d) If domestic violence and abuse, as defined in KRS 403.720, is found by the court to exist, the extent to which the domestic violence and abuse has affected the child and the child's relationship to both parents.
- (5) (a) Except as provided in paragraph (b) of this subsection, any court-ordered modification of a child custody decree, based in whole or in part on:
1. The active duty of a parent or a de facto custodian as a regular member of the United States Armed Forces deployed outside the United States; or
 2. Any federal active duty of a parent or a de facto custodian as a member of a state National Guard or a Reserve component;
- shall be temporary and shall revert back to the previous child custody decree at the end of the deployment outside the United States or the federal active duty, as appropriate.
- (b) A parent or de facto custodian identified in paragraph (a) of this subsection may consent to a modification of a child custody decree that continues past the end of the deployment outside the United States or the federal active duty, as appropriate.
- (6) Subject to KRS 403.315, if the court orders a modification of a child custody decree, there shall be a presumption, rebuttable by a preponderance of evidence, that it is in the best interest of the child for the parents to have joint custody and share equally in parenting time. If a deviation from equal parenting time is warranted, the court shall construct a parenting time schedule which maximizes the time each parent or de facto custodian has with the child and is consistent with ensuring the child's welfare.
- (7) Attorney fees and costs shall be assessed against a party seeking modification if the court finds that the modification action is vexatious and constitutes harassment.

Effective: July 14, 2018

History: Amended 2018 Ky. Acts ch. 198, sec. 4, effective July 14, 2018. -- Amended 2006 Ky. Acts ch. 252, Pt. XXVIII, sec. 10, effective April 25, 2006. -- Amended 2001 Ky. Acts ch. 161, sec. 2, effective March 21, 2001. -- Amended 1998 Ky. Acts ch. 250, sec. 3, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 414, sec. 3, effective July 14, 1992. -- Created 1972 Ky. Acts ch. 182, sec. 24.

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403.350 Affidavit required with motion for temporary custody order or for modification of custody decree.

A party seeking a temporary custody order or modification of a custody decree shall submit together with his moving papers an affidavit setting forth facts supporting the requested order or modification and shall give notice, together with a copy of his affidavit, to other parties to the proceeding, who may file opposing affidavits. If a court determines that a child is in the custody of a de facto custodian, the court shall make the de facto custodian a party to the proceeding. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested order or modification should not be granted.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 250, sec. 4, effective July 15, 1998. -- Created 1972 Ky. Acts ch. 182, sec. 25.

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403.352 Power of attorney for temporary delegation of parental rights and responsibilities regarding care and custody of a child.

- (1) A parent or legal guardian of a child, by a properly executed power of attorney, as established in this section and KRS 403.353, may temporarily delegate to another person, named in the instrument as the attorney-in-fact, for a period not to exceed one (1) year any of the traditional parental rights and responsibilities regarding care and custody of the child except the following authorities:
 - (a) Consent for the child to marry;
 - (b) Consent for an abortion or inducement of an abortion to be performed on or for the child; or
 - (c) The termination of parental rights to the child.
- (2) A temporary delegation of rights and responsibilities under this section shall not:
 - (a) Operate to change or modify any parental or legal rights, obligations, or authority established by an existing court order; or
 - (b) Deprive the parent or legal custodian of any parental or legal rights, obligations, or authority regarding the custody, visitation, or support of the child.
- (3) The parent or legal custodian of the child shall have the authority to revoke or withdraw the power of attorney authorized by this section at any time.
- (4) Upon the termination, withdrawal, expiration, or revocation of the power of attorney established by this section, the child shall be returned to the custody of the parent or legal guardian as soon as reasonably possible.
- (5) The attorney-in-fact named in the instrument as established by this section shall not be compensated for serving as the attorney-in-fact pursuant to this section.
- (6) Unless the power of attorney established by this section is terminated, revoked, or withdrawn, the attorney-in-fact named in the instrument shall exercise parental or legal authority on a continuous basis for the duration of the power of attorney established by this section.
- (7)
 - (a) An attorney-in-fact properly appointed pursuant to this section and in compliance with this section shall not be subject to any statutes dealing with the licensing or regulation of foster care homes or other child-care facility licensing statutes, and the appointment of an attorney-in-fact pursuant to this section and KRS 403.353 shall not constitute an out-of-home child placement.
 - (b) The child or children subject to the power of attorney established in this section shall not be considered placed in foster care, and the parties involved in the power of attorney established in this section shall not be subject to any requirements, monitoring, or other regulation for foster care or community care solely because of the execution of an instrument authorized pursuant to this section or KRS 403.353.
- (8) Except as otherwise provided pursuant to the Kentucky Revised Statutes, the execution of a power of attorney as established pursuant to this section by a parent or legal guardian shall not by itself constitute evidence of abandonment, abuse, or

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neglect, unless the parent or legal guardian fails to take custody of the child or execute a new power of attorney after the one (1) year time limit has elapsed. Nothing in this subsection shall be interpreted to prevent an investigation of abuse, neglect, abandonment, other mistreatment of a child, or other crime.

- (9) (a) A parent or legal guardian shall not execute a power of attorney pursuant to this section or KRS 403.353 with the intention of permanently avoiding or divesting himself or herself of parental or legal responsibility for the care of the child or for any other illegal or fraudulent purpose.
- (b) An attorney-in-fact or prospective attorney-in-fact designated or potentially designated pursuant to this section or KRS 403.353 shall not demand or request that a parent or guardian enter into an instrument established pursuant to this section or KRS 403.353 as a result of any person's financial or other debt or obligation, or for any other illegal or fraudulent purpose.
- (c) A power of attorney established pursuant to this section and KRS 403.353 shall not be used solely for the purpose of establishing residency for school attendance purposes unless the child actually resides with the attorney-in-fact in the school district where the enrollment is sought, or the child otherwise resides in the district.
- (d) Violation of this section shall be punishable under Kentucky law.
- (10) If a parent or legal guardian of a child chooses to delegate powers pursuant to this section regarding the care and custody of the child to a person or persons other than a grandparent, aunt, uncle, or adult sibling of the child, a full criminal history and child abuse and neglect background check shall be conducted on the person or persons prior to the execution of the power of attorney authorized by this section. The results of the background check shall be kept with the instrument establishing the power of attorney pursuant to this section. A child shall not be placed with an individual whose background check indicates that he or she has a criminal history of child abuse and neglect.
- (11) A parent who is a member of the Armed Forces of the United States, including any reserve component thereof, or the commissioned corps of the National Oceanic and Atmospheric Administration, or the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the Armed Forces of the United States, or a parent who is otherwise required to enter or serve in the active military service of the United States under a call or order of the President of the United States or to serve on state active duty, may delegate his or her traditional parental rights and responsibilities via a power of attorney established in this section for a period longer than one (1) year while on active duty service. The term of delegation permitted by this subsection shall not exceed the term of active duty service plus thirty (30) days.
- (12) Any period of time during which a child resides with an attorney-in-fact under an unexpired and valid power of attorney properly executed pursuant to this section and KRS 403.353, shall not be included in determining whether the child has resided with the attorney-in-fact for the minimum period required to be designated a de facto custodian pursuant to KRS 403.270(1).

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Effective: July 15, 2016

History: Created 2016 Ky. Acts ch. 107, sec. 1, effective July 15, 2016.

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403.353 Form of power of attorney authorized by KRS 403.352.

- (1) A power of attorney established pursuant to this section and KRS 403.352 shall be substantially in the following form, and may include other specific directions which are in accordance with accepted legal practice and not specifically prohibited by any other statute. If any other specific directions are held by a court of appropriate jurisdiction to be invalid, that invalidity shall not affect the power of attorney or other provisions established in this section and KRS 403.352.

"Power of Attorney for Temporary Delegation
of Parental or Legal Custody and Care

1. I certify that I am the parent or legal guardian of:

(Full name of minor child)

(Date of birth)

(Full name of minor child)

(Date of birth)

(Full name of minor child)

(Date of birth)

2. I designate _____ (Full name of Attorney-in-fact),

(Street address, city, state, and zip code of Attorney-in-fact)

(Home phone of Attorney-in-fact)

(Work phone of Attorney-in-fact)

3. I delegate to the Attorney-in-fact all of my power and authority regarding the care, custody, and property of each minor child named above, including but not limited to the right to enroll the child in school, inspect and obtain copies of education records and other records concerning the child, the right to attend school activities and other functions concerning the child, and the right to give or withhold any consent or waiver with respect to school activities, medical and dental treatment, and any other activity, function, or treatment that may concern the child. This delegation shall not include the power or authority to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child.

OR

In the event that Section 4 is completed, Section 3 does not apply.

4. I delegate to the Attorney-in-fact the following specific powers and responsibilities (write in):

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This delegation shall not include the power or authority to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child.

5. This power of attorney is effective for a period not to exceed one (1) year, beginning _____, 20__, and ending _____, 20__.

I reserve the right to revoke this authority at any time.

OR

In the event Section 6 is completed and valid, Section 5 does not apply.

6. I am a parent or legal guardian on active duty as governed by KRS 403.352(10). My active duty service is scheduled to begin on _____, 20__, and is estimated to end on _____, 20__. I acknowledge that in no event may this delegation of power last more than one (1) year or the term of my active duty plus thirty (30) days, whichever is longer.

7. BY: _____
(Parent/Legal Guardian signature)

8. I hereby accept my designation as Attorney-in-fact for the minor child or children specified in this power of attorney.

(Attorney-in-fact signature)

County of _____

ACKNOWLEDGMENT

Before me, the undersigned, a Notary Public, in and for said County and State on this ___ day of _____, 20__, personally appeared

(Name of Parent/Legal Guardian)

(Name of Attorney-in-fact),

to me known to be the identical persons who executed this instrument and acknowledged to me that each executed the same as his or her free and voluntary act and deed for the uses and purposes set forth in the instrument.

Witness my hand and official seal the day and year above written.

(Signature of notary public)

My commission expires: _____."

(2) The power of attorney is legally sufficient under this section and KRS 403.352 if the wording of the form complies substantially with subsection (1) of this section, the form is properly completed and signed, and the form or parties are not otherwise invalid pursuant to KRS 403.352.

Effective: July 15, 2016

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History: Created 2016 Ky. Acts ch. 107, sec. 2, effective July 15, 2016.

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403.355 Definition of "safe child drop-off location" -- Child custody exchanges in these locations.

- (1) As used in this section, "safe child drop-off location" means any public building owned, leased, or occupied by the Commonwealth, or by any city or county within the Commonwealth, to which access is limited and security measures, including metal detectors, are in place.
- (2) Any separation agreement, decree of divorce, temporary custody order, or post-decree order may require that exchanges of child custody take place in a safe child drop-off location at a point past the metal detectors and other security measures.
- (3) Public buildings owned, leased, or occupied by the Commonwealth, or by any city or county within the Commonwealth, to which access is limited and in which security measures, including metal detectors, are in place, may allow access to spaces otherwise open to the public for use as a safe child drop-off location, but no such building shall be required to make any other accommodation for such use.

Effective: March 22, 2013

History: Created 2013 Ky. Acts ch. 79, sec. 2, effective March 22, 2013.

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403.705 Domestic violence coordinating councils -- Membership -- Purpose -- Local protocol required -- Domestic violence fatality review teams -- Duties.

- (1) One (1) or more local domestic violence coordinating councils may be established in any jurisdiction or group of counties.
- (2) Membership on local domestic violence coordinating councils may include, but not be limited to, judges, Commonwealth's and county attorneys, law enforcement officers, probation or parole officers, spouse abuse center staff, other victim advocates defined under KRS 421.570, family service workers employed by the Cabinet for Health and Family Services, mental health professionals, health care professionals, educators, public advocates, and other persons as deemed appropriate.
- (3) The purpose of local domestic violence coordinating councils shall include, but not be limited to, the promotion of public awareness about domestic violence, the facilitation of interagency coordination, and the assessment of service delivery related to domestic violence.
- (4) Local domestic violence coordinating councils shall develop a local protocol consistent with nationally recognized practice.
- (5) Local domestic violence coordinating councils may, if authorized by the local coroner or a medical examiner, create a domestic violence fatality review team, the purpose of which shall be to prevent future deaths and injuries related to domestic violence.
- (6) Domestic violence fatality review teams of local domestic violence coordinating councils may:
 - (a) Analyze information regarding local domestic violence fatalities to identify trends, patterns, and risk factors;
 - (b) Evaluate the effectiveness of local prevention and intervention strategies; and
 - (c) Recommend, to the appropriate state or local governmental agency, changes in the Kentucky Revised Statutes, administrative regulations, policies, budgets, and treatment and service standards that may facilitate the prevention of domestic violence fatalities. The fatality review team may establish a protocol for the investigation of domestic violence fatalities and may establish operating rules and procedures as it deems necessary to carry out the purposes of this section.
- (7) The review of a case by a domestic violence fatality review team may include information from reports generated or received by agencies, organizations, or individuals responsible for investigation, prosecution, or treatment in the case.
- (8) The proceedings, records, opinions, and deliberations of the domestic violence fatality review team shall be privileged and shall not be subject to discovery, subpoena, or introduction into evidence in any civil action in any manner that would directly or indirectly identify specific persons or cases reviewed by the local team. Nothing in this subsection shall be construed to restrict or limit the right to discover or use in any civil action any evidence that is discoverable independent of the proceedings of the domestic violence fatality review team.

Effective: June 29, 2017

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History: Amended 2017 Ky. Acts ch. 80, sec. 51, effective June 29, 2017. --
Amended 2005 Ky. Acts ch. 99, sec. 626, effective June 20, 2005. -- Created
2000 Ky. Acts ch. 317, sec. 3, effective July 14, 2000.

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403.707 Sexual Assault Response Team Advisory Committee -- Co-chairs -- Membership -- Duties.

- (1) The Sexual Assault Response Team Advisory Committee is established.
- (2) The Sexual Assault Response Team Advisory Committee shall be co-chaired by the executive director of the Kentucky Association of Sexual Assault Programs and the commissioner of the Department of Kentucky State Police or the commissioner's designee.
- (3) The membership of the Sexual Assault Response Team Advisory Committee shall consist of the following:
 - (a) The executive director of the Kentucky Board of Nursing or the executive director's designee;
 - (b) The executive director of the Kentucky Nurses Association or the executive director's designee;
 - (c) The executive director of the Kentucky Hospital Association or the executive director's designee;
 - (d) The executive director of the Kentucky Association of Children's Advocacy Centers;
 - (e) The director of the Department of Kentucky State Police Crime Lab;
 - (f) The commissioner of the Department for Community Based Services or the commissioner's designee;
 - (g) The director of the Victims' Advocacy Division of the Office of the Attorney General or the director's designee;
 - (h) A sexual assault nurse examiner appointed by the secretary of the Cabinet for Health and Family Services;
 - (i) A representative from a sexual assault response team appointed by the executive director of the Kentucky Association of Sexual Assault Programs;
 - (j) A physician appointed by the secretary of the Cabinet for Health and Family Services; and
 - (k) A Commonwealth's attorney or an assistant Commonwealth's attorney appointed by the Attorney General.
- (4) Members appointed under subsection (3)(h) to (k) of this section shall serve at the pleasure of the appointing authority and shall not serve longer than four (4) years without reappointment.
- (5) The Sexual Assault Response Team Advisory Committee shall:
 - (a) Serve in an advisory capacity to the Kentucky Board of Nursing in accomplishing the duties set forth under KRS 314.142;
 - (b) Serve in an advisory capacity to the Justice and Public Safety Cabinet in the development of the statewide sexual assault protocol required under KRS 216B.400(4);
 - (c) Develop a model protocol for the operation of sexual assault response teams which shall include the roles of sexual assault nurse examiners, physicians, law enforcement, prosecutors, and victim advocates;
 - (d) Provide assistance to each regional rape crisis center, as designated by

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the Cabinet for Health and Family Services, in establishing a regional sexual assault response team;

- (e) Develop model policies for law enforcement agencies related to handling sexual assault examination kits and investigating sexual assaults with a victim-centered, evidence-based approach;
- (f) By January 1, 2018, report to the General Assembly on the results of the analysis of previously untested sexual assault examination kits submitted to the Department of Kentucky State Police forensic laboratory pursuant to 2016 Ky. Acts ch. 58, sec. 1, including whether analysis of those kits led to the identification and prosecution of suspects and the cost to society of the offenses committed by the suspects identified;
- (g) By July 1, 2018, and by each July 1 thereafter, report to the General Assembly and to the secretary of the Justice and Public Safety Cabinet on the number of sexual assaults reported, the number of sexual assault examination kits submitted to the Department of Kentucky State Police forensic laboratory, the number of kits tested, and the number of charges filed and convictions obtained in sexual assault cases in the previous calendar year;
- (h) Provide information and recommendations concerning the activities of the agency or organization represented by each individual committee member as related to sexual assault issues and programs within the purview of the agency or organization; and
- (i) Recommend to the appropriate state agency any changes in statute, administrative regulation, training, policy, and budget to promote a multidisciplinary response to sexual assault.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 80, sec. 52, effective June 29, 2017. -- Amended 2016 Ky. Acts ch. 58, sec. 5, effective April 8, 2016. -- Amended 2012 Ky. Acts ch. 158, sec. 69, effective July 12, 2012. -- Amended 2010 Ky. Acts ch. 101, sec. 3, effective July 15, 2010. -- Amended 2007 Ky. Acts ch. 85, sec. 305, effective June 26, 2007. -- Amended 2005 Ky. Acts ch. 99, sec. 69, effective June 20, 2005. -- Created 2002 Ky. Acts ch. 20, sec. 4, effective July 15, 2002.

Legislative Research Commission Note (4/8/2016). 2016 Ky. Acts ch. 58, sec. 11 provided that that Act shall be known as the Sexual Assault Forensic Evidence (SAFE) Act of 2016. This statute was amended in Section 5 of that Act.

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403.710 Repealed, 1984.

Catchline at repeal: Protective orders by court.

History: Repealed 1984 Ky. Acts ch. 152, sec. 16, effective July 13, 1984. -- Created 1980 Ky. Acts ch. 93, sec. 1, effective July 15, 1980.

Legislative Research Commission Note. This section was amended by 1984 Acts Chapter 111, Â§ 160 (the Revisor's Bill). Pursuant to KRS 7.123, the repeal by the nonrevisory Act prevails.

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403.715 Interpretation of KRS 403.715 to 403.785.

KRS 403.715 to 403.785 shall be interpreted to:

- (1) Allow victims to obtain effective, short-term protection against further wrongful conduct in order that their lives may be as secure and as uninterrupted as possible;
- (2) Expand the ability of law enforcement officers to effectively respond to further wrongful conduct so as to prevent future incidents and to provide assistance to the victims;
- (3) Provide peace officers with the authority to immediately apprehend and charge for violation of an order of protection any person whom the officer has probable cause to believe has violated an order of protection and to provide courts with the authority to conduct contempt of court proceedings for these violations;
- (4) Provide for the collection of data concerning incidents of domestic violence and abuse in order to develop a comprehensive analysis of the numbers and causes of such incidents; and
- (5) Supplement and not repeal or supplant any duties, responsibilities, services, or penalties under KRS Chapters 209, 209A, and 620.

Effective: January 1, 2016

History: Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 1, effective January 1, 2016. -- Amended 1992 Ky. Acts ch. 172, sec. 1, effective July 14, 1992. -- Created 1984 Ky. Acts ch. 152, sec. 1, effective July 13, 1984.

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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, stalking, 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 grandparent, a grandchild, a parent, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim;
- (3) "Foreign protective order" means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 that was issued on the basis of domestic violence and abuse;
- (4) "Global positioning monitoring system" means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;
- (5) "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;
- (6) "Order of protection" means an emergency protective order or a domestic violence order and includes a foreign protective order; and
- (7) "Substantial violation" means criminal conduct which involves actual or threatened harm to the person, family, or property of an individual protected by an order of protection.

Effective: January 1, 2016

History: Amended 2015 Ky. Acts ch. 102, sec. 2, effective January 1, 2016. -- Amended 2010 Ky. Acts ch. 170, sec. 1, effective July 15, 2010. -- Amended 1992 Ky. Acts ch. 172, sec. 2, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 258, sec. 4, effective July 15, 1988. -- Created 1984 Ky. Acts ch. 152, sec. 2, effective July 13, 1984.

Legislative Research Commission Note (7/15/2010). 2010 Ky. Acts ch. 170, sec. 20, provides that the amendments made to KRS 15.334, 403.720, 403.735, 403.740, 403.750, 431.005, 431.517, 431.518, 431.520, 533.030, and 533.250 and the creation of KRS 67.372, 67.374, 403.741, 403.743, 403.747, 403.761, 403.762, and 511.085 in that Act shall be known as the "Amanda Ross Domestic Violence Prevention Act."

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403.725 Petition for order of protection -- Venue -- Verified contents -- Concurrent jurisdiction -- Protocols for access and supplemental jurisdiction -- Referral.

- (1) A petition for an order of protection may be filed by:
 - (a) A victim of domestic violence and abuse; or
 - (b) An adult on behalf of a victim who is a minor otherwise qualifying for relief under this subsection.
- (2) The petition may be filed in the victim's county of residence or a county where the victim has fled to escape domestic violence and abuse.
- (3) The petition shall be verified and contain:
 - (a) The name, age, address, occupation, residence, and school or postsecondary institution of the petitioner;
 - (b) The name, age, address, occupation, residence, and school or postsecondary institution of the person or persons who have engaged in the alleged act or acts complained of in the petition;
 - (c) The facts and circumstances which constitute the basis for the petition;
 - (d) The date and place of the marriage of the parties, if applicable; and
 - (e) The names, ages, and addresses of the petitioner's minor children, if applicable.
- (4) The petition shall be filed on forms prescribed by the Administrative Office of the Courts and provided to the person seeking relief by the circuit clerk or by another individual authorized by the court to provide and verify petitions in emergency situations, such as law enforcement officers, Commonwealth's or county attorneys, and regional rape crisis centers or domestic violence shelters.
- (5) All petitions requested, completed, and signed by persons seeking protection under this chapter shall be accepted and filed with the court.
- (6)
 - (a) Jurisdiction over petitions filed under this chapter shall be concurrent between the District Court and Circuit Court and a petition may be filed by a petitioner in either court, except that a petition shall be filed in a family court if one has been established in the county where the petition is filed.
 - (b) The Court of Justice shall provide a protocol for twenty-four (24) hour access to orders of protection in each county with any protocol, whether statewide or local, being subject to Supreme Court review and approval of the initial protocol and any subsequent amendments. This protocol may allow for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.
 - (c) The Court of Justice may authorize by rule that petitions in a specific county be filed in accordance with a supplemental jurisdictional protocol adopted for that county. This protocol may provide for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.
 - (d) 1. In addition to the protocols for twenty-four (24) hour access established under paragraphs (b) and (c) of this subsection, before January 1, 2019,

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the Court of Justice shall provide protocols for filing, including electronic filing, of petitions for orders of protection at those regional rape crisis centers designated under KRS 211.600, or regional domestic violence shelters designated under KRS 209A.045, that elect to participate in any county's twenty-four (24) hour access protocol.

2. These protocols shall be subject to Supreme Court review for approval of the initial protocol and any subsequent amendments.
- (7) Any judge to whom a petition is referred under subsection (6) of this section shall have full authority to review and hear a petition and subsequently grant and enforce an order of protection.
- (8) If the judge of a court in which there is a pending request for modification or enforcement of an existing order of protection is unavailable or unable to act within a reasonable time, the proceedings may be conducted by any judge of the county in accordance with court rules.

Effective: July 14, 2018

History: Amended 2018 Ky. Acts ch. 115, sec. 6, effective July 14, 2018. -- Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 3, effective January 1, 2016. -- Amended 1996 Ky. Acts ch. 99, sec. 1, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 172, sec. 3, effective July 14, 1992; and ch. 414, sec. 4, effective July 14, 1992. -- Created 1984 Ky. Acts ch. 152, sec. 3, effective July 13, 1984.

Legislative Research Commission Note (7/14/2018). Pursuant to 2018 Ky. Acts ch. 115, sec. 12, that Act shall be known as the Women's Dignity in the Justice System Act. This statute was amended in Section 6 of that Act.

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403.730 Immediate review of petition -- Summons to evidentiary hearing -- Ex parte emergency protective order.

- (1) (a) The court shall review a petition for an order of protection immediately upon its filing. If the review indicates that domestic violence and abuse exists, the court shall summons the parties to an evidentiary hearing not more than fourteen (14) days in the future. If the review indicates that such a basis does not exist, the court may consider an amended petition or dismiss the petition without prejudice.
- (b) Service of the summons and hearing order under this subsection shall be made upon the adverse party personally and may be made in the manner and by the persons authorized to serve subpoenas under Rule 45.03 of the Rules of Civil Procedure. A summons may be reissued if service has not been made on the adverse party by the fixed court date and time.
- (2) (a) If the review under this section also indicates the presence of an immediate and present danger of domestic violence and abuse, the court shall, upon proper motion, issue ex parte an emergency protective order that:
 1. Authorizes relief appropriate to the situation utilizing the alternatives set out in KRS 403.740, other than awarding temporary support or counseling;
 2. Expires upon the conclusion of the evidentiary hearing required by this section unless extended or withdrawn by subsequent order of the court; and
 3. Does not order or refer the parties to mediation unless requested by the petitioner, and the court finds that:
 - a. The petitioner's request is voluntary and not the result of coercion; and
 - b. Mediation is a realistic and viable alternative to or adjunct to the issuance of an order sought by the petitioner.
- (b) If an order is not issued under this subsection, the court shall note on the petition, for the record, any action taken or denied and the reason for it.

Effective: January 1, 2016

History: Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 4, effective January 1, 2016. -- Amended 1992 Ky. Acts ch. 172, sec. 4, effective July 14, 1992. -- Created 1984 Ky. Acts ch. 152, sec. 4, effective July 13, 1984.

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403.735 Hearing on petition for order of protection -- Criteria to assess appropriate relief and sanctions -- Continuance of hearing and emergency protective order.

- (1) Prior to or at a hearing on a petition for an order of protection:
 - (a) The court may obtain the respondent's Kentucky criminal and protective order history and utilize that information to assess what relief and which sanctions may protect against danger to the petitioner or other person for whom protection is being sought, with the information so obtained being provided to the parties in accordance with the Rules of Civil Procedure; and
 - (b) If the petitioner or respondent is a minor, the court shall inquire whether the parties attend school in the same school system to assist the court in imposing conditions in the order that have the least disruption in the administration of education to the parties while providing appropriate protection to the petitioner.
- (2)
 - (a) If the adverse party is not present at the hearing ordered pursuant to KRS 403.730 and has not been served, a previously issued emergency protective order shall remain in place, and the court shall direct the issuance of a new summons for a hearing set not more than fourteen (14) days in the future. If service has not been made on the adverse party before that hearing or a subsequent hearing, the emergency protective order shall remain in place, and the court shall continue the hearing and issue a new summons with a new date and time for the hearing to occur, which shall be within fourteen (14) days of the originally scheduled date for the continued hearing. The court shall repeat the process of continuing the hearing and reissuing a new summons until the adverse party is served in advance of the scheduled hearing. If service has not been made on the respondent at least seventy-two (72) hours prior to the scheduled hearing, the court may continue the hearing no more than fourteen (14) days in the future. In issuing the summons, the court shall simultaneously transmit a copy of the summons or notice of its issuance and provisions to the petitioner.
 - (b) The provisions of this section permitting the continuance of an emergency protective order shall be limited to six (6) months from the issuance of the emergency protective order. If the respondent has not been served within that period, the order shall be rescinded without prejudice. Prior to the expiration of the emergency protective order, the court shall provide notice to the petitioner stating that, if the petitioner does not file a new petition, the order shall be rescinded without prejudice.

Effective: January 1, 2016

History: Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 5, effective January 1, 2016. -- Amended 2010 Ky. Acts ch. 170, sec. 19, effective July 15, 2010. -- Amended 1996 Ky. Acts ch. 99, sec. 14, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 172, sec. 5, effective July 14, 1992. -- Created 1984 Ky. Acts ch. 152, sec. 5, effective July 13, 1984.

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403.737 Repealed, 2016. (Effective January 1, 2016)

Catchline at repeal: Forms for documents entered into Law Information Network of Kentucky.

History: Repealed 2015 Ky. Acts ch. 102, sec. 51, effective January 1, 2016. -- Amended 2007 Ky. Acts ch. 85, sec. 306, effective June 26, 2007. -- Created 1996 Ky. Acts ch. 99, sec. 3, effective July 15, 1996.

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403.740 Domestic violence order -- Restrictions -- Temporary child support -- Expiration and reissuance.

- (1) Following a hearing ordered under KRS 403.730, if a court finds by a preponderance of the evidence that domestic violence and abuse has occurred and may again occur, the court may issue a domestic violence order:
 - (a) Restraining the adverse party from:
 1. Committing further acts of domestic violence and abuse;
 2. Any unauthorized contact or communication with the petitioner or other person specified by the court;
 3. Approaching the petitioner or other person specified by the court within a distance specified in the order, not to exceed five hundred (500) feet;
 4. Going to or within a specified distance of a specifically described residence, school, or place of employment or area where such a place is located; and
 5. Disposing of or damaging any of the property of the parties;
 - (b) Directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of domestic violence and abuse, except that the court shall not order the petitioner to take any affirmative action;
 - (c) Directing that either or both of the parties receive counseling services available in the community in domestic violence and abuse cases; and
 - (d) Additionally, if applicable:
 1. Directing the adverse party to vacate a residence shared by the parties to the action;
 2. Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.822, grant temporary custody, subject to KRS 403.315; and
 3. Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213, award temporary child support.
- (2) In imposing a location restriction described in subsection (1)(a)4. of this section, the court shall:
 - (a) Afford the petitioner and respondent, if present, an opportunity to testify on the issue of the locations and areas from which the respondent should or should not be excluded;
 - (b) Only impose a location restriction where there is a specific, demonstrable danger to the petitioner or other person protected by the order;
 - (c) Specifically describe in the order the locations or areas prohibited to the respondent; and
 - (d) Consider structuring a restriction so as to allow the respondent transit through an area if the respondent does not interrupt his or her travel to harass, harm, or attempt to harass or harm the petitioner.
- (3) When temporary child support is granted under this section, the court shall enter an order detailing how the child support is to be paid and collected. Child support

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ordered under this section may be enforced utilizing the same procedures as any other child support order.

- (4) A domestic violence order 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 subsequent periods of up to three (3) years each. The fact that an order has not been violated since its issuance may be considered by a court in hearing a request for a reissuance of the order.

Effective: July 14, 2018

History: Amended 2018 Ky. Acts ch. 198, sec. 6, effective July 14, 2018. -- Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 6, effective January 1, 2016. -- Amended 2010 Ky. Acts ch. 170, sec. 2, effective July 15, 2010. -- Amended 2004 Ky. Acts ch. 133, sec. 44, effective July 13, 2004. -- Amended 1996 Ky. Acts ch. 99, sec. 16, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 172, sec. 6, effective July 14, 1992. -- Created 1984 Ky. Acts ch. 152, sec. 6, effective July 13, 1984.

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403.741 Repealed, 2016. (Effective January 1, 2016)

Catchline at repeal: Consideration of respondent's criminal history and past emergency protective order or domestic violence order required.

History: Repealed 2015 Ky. Acts ch. 102, sec. 51, effective January 1, 2016. -- Created 2010 Ky. Acts ch. 170, sec. 3, effective July 15, 2010.

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403.743 Repealed, 2016. (Effective January 1, 2016)

Catchline at repeal: Referral of petitioner to county attorney -- Duties of county attorney.

History: Repealed 2015 Ky. Acts ch. 102, sec. 51, effective January 1, 2016. -- Created 2010 Ky. Acts ch. 170, sec. 4, effective July 15, 2010.

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403.745 Duration of emergency protective order and domestic violence order -- Prohibited costs and conditions -- Mutual orders of protection -- Amendment - - Expungement.

- (1) An emergency protective order and a domestic violence order shall become effective and binding on the respondent when the respondent is given notice of the existence and terms of the order by a peace officer or the court or upon personal service of the order, whichever is earlier. A peace officer or court giving notice of an unserved order shall make all reasonable efforts to arrange for the order's personal service upon the respondent. Once effective, a peace officer or the court may enforce the order's terms and act immediately upon their violation.
- (2) Costs, fees, or bond shall not be assessed against or required of a petitioner for any filing, hearing, service, or order authorized by or required to implement KRS 403.715 to 403.785.
- (3) A court shall not require mediation, conciliation, or counseling prior to or as a condition of issuing an order of protection.
- (4) Mutual orders of protection may be issued only if:
 - (a) Separate petitions have been filed by both parties; and
 - (b) The orders are written with sufficient specificity to allow any peace officer to identify which party has violated the order.
- (5) Upon proper filing of a motion, either party may seek to amend an order of protection.
- (6) Testimony offered by an adverse party in a hearing ordered pursuant to KRS 403.730 shall not be admissible in any criminal proceeding involving the same parties, except for purposes of impeachment.
- (7)
 - (a) The Court of Justice, county and Commonwealth's attorneys, law enforcement agencies, and victim services organizations may jointly operate a domestic violence intake center to assist persons who apply for relief under KRS 403.715 to 403.785.
 - (b) In cases where criminal conduct is alleged, a court may suggest that a petitioner voluntarily contact the county attorney. A court may not withhold or delay relief if the petitioner elects to not contact the county attorney.
- (8) A person's right to apply for relief under this chapter shall not be affected by that person leaving his or her residence to avoid domestic violence and abuse.
- (9) A court shall order the omission or deletion of the petitioner's address and the address of any minor children from any orders or documents to be made available to the public or to any person who engaged in the acts complained of in the petition.
- (10)
 - (a) If a petition under KRS 403.715 to 403.785 did not result in the issuance of a domestic violence order, the court in which the petition was heard may for good cause shown order the expungement of the records of the case if:
 1. Six (6) months have elapsed since the case was dismissed; and
 2. During the six (6) months preceding the expungement request, the respondent has not been bound by an order of protection issued for the

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protection of any person, including an order of protection as defined in KRS 456.010.

- (b) As used in this subsection, "expungement" has the same meaning as in KRS 431.079.

Effective: January 1, 2016

History: Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 7, effective January 1, 2016. -- Amended 1992 Ky. Acts ch. 172, sec. 7, effective July 14, 1992. -- Created 1984 Ky. Acts ch. 152, sec. 7, effective July 13, 1984.

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403.747 Repealed, 2016. (Effective January 1, 2016)

Catchline at repeal: Testimony to be given under oath – Consideration of specified areas respondent is to be excluded from.

History: Repealed 2015 Ky. Acts ch. 102, sec. 51, effective January 1, 2016. – Created 2010 Ky. Acts ch. 170, sec. 6, effective July 15, 2010.

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403.750 Order of protection for family member or member of unmarried couple upon filing of petition or action under KRS Chapter 403.

- (1) Any family member or any member of an unmarried couple may file for and receive protection under this chapter from domestic violence and abuse, notwithstanding the existence of or intent to file an action under this chapter by either party.
- (2)
 - (a) Any family member or member of an unmarried couple who files a petition for an order of protection based upon domestic violence or abuse shall make known to the court any custody or divorce actions involving both the petitioner and the respondent that are pending in any court.
 - (b) If the petitioner or respondent to an order of protection initiates an action under this chapter, the party initiating the action shall make known to the court the existence and status of any orders of protection, which shall remain effective and enforceable until superseded by order of the court in which the case is filed.
- (3) If a family member or member of an unmarried couple files an action for dissolution of marriage, child custody, or visitation, the court hearing the case shall have jurisdiction to issue an order of protection upon the filing of a verified motion either at the commencement or during the pendency of the action.

Effective: January 1, 2016

History: Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 8, effective January 1, 2016. -- Amended 2010 Ky. Acts ch. 170, sec. 5, effective July 15, 2010. -- Amended 2004 Ky. Acts ch. 133, sec. 45, effective July 13, 2004. -- Amended 1996 Ky. Acts ch. 99, sec. 2, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 172, sec. 8, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 418, sec. 6, effective July 13, 1990. -- Created 1984 Ky. Acts ch. 152, sec. 8, effective July 13, 1984.

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

- (1) The Cabinet for Health and Family Services 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

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submit the list to the Administrative Office of the Courts; and

- (b) Collect data from certified providers, which shall include demographic information and clinical characteristics on offenders served, number of offenders admitted into treatment and discharge conditions, total clinical services provided to offenders, and other information necessary to monitor the safety and effectiveness of services provided, to be provided upon request.
- (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.
- (6) Any person certified under this section shall submit quarterly to the cabinet:
- (a) Demographic information and clinical characteristics on offenders served;
 - (b) Number of offenders admitted into treatment and discharge conditions;
 - (c) Total clinical services provided to offenders; and
 - (d) Other information as required by administrative regulation.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 80, sec. 53, effective June 29, 2017. -- Amended 2005 Ky. Acts ch. 99, sec. 627, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 70, sec. 1, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 317, sec. 4, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 426, sec. 581, effective July 15, 1998. -- Created 1996 Ky. Acts ch. 54, sec. 1, effective July 15, 1996.

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403.751 Entry of summons or order of protection issued pursuant to KRS 403.715 to 403.785 into Law Information Network of Kentucky.

- (1) All forms, affidavits, and orders of protection issued or filed pursuant to KRS 403.715 to 403.785 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 and Public Safety Cabinet. If the provisions of an order of protection are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.
- (2) The circuit clerk, in cooperation with the court, shall cause a copy of each summons or order issued pursuant to KRS 403.715 to 403.785, or foreign protective order, fully completed and authenticated pursuant to KRS 403.715 to 403.785, 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 orders of protection 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 KRS 403.715 to 403.785, or foreign protective orders authenticated pursuant to this chapter, 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.

Effective: January 1, 2016

History: Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 9, effective January 1, 2016. -- Created 1996 Ky. Acts ch. 99, sec. 13, effective July 15, 1996.

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403.7521 Foreign protective orders -- Rebuttable presumption of validity -- Enforcement -- Civil and criminal proceedings mutually exclusive.

- (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 order of protection 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) If 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.
- (5) 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.

Effective: January 1, 2016

History: Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 10, effective January 1, 2016. -- Created 1996 Ky. Acts ch. 99, sec. 4, effective July 15, 1996.

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403.7524 Statement to assist out-of-state court in determining whether order issued under KRS 403.715 to 403.785 is entitled to full faith and credit.

- (1) In order to assist a court of another state in determining whether an order issued under KRS 403.715 to 403.785 is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265:
 - (a) All domestic violence orders 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; and
 - (b) All emergency protective orders shall include a statement certifying 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.
- (2) The Administrative Office of the Courts shall prescribe the form to be used for the purposes of this section.

Effective: January 1, 2016

History: Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 11, effective January 1, 2016. -- Created 1996 Ky. Acts ch. 99, sec. 5, effective July 15, 1996.

Legislative Research Commission Note (7/15/96; modified 1/7/98). 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 (3) 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. (Modified to correct a mistaken subsection reference.)

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403.7527 Filing of foreign protective order and affidavit -- Certification by issuing court official -- Entry into Law Information Network of Kentucky.

- (1) A copy of a foreign protective order 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 order of protection issued by a court of this state.
- (2)
 - (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.
 - (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.
- (3)
 - (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 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 be subject to full faith and credit in the same manner as a Kentucky order of protection, 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 order of protection 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 foreign 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

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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 protective order shall be grounds for the issuance of an order of protection.

- (d) If the clerk has not received a certified copy of the foreign protective 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 foreign protective order will be extended for another fourteen (14) days, but will be dismissed at the expiration of that time. If the clerk informs the judge in writing that the certified foreign protective order has been requested but has not yet been received, the judge shall extend the foreign protective order for a period of fourteen (14) days. If certification of the foreign protective order is not received within twenty-eight (28) days, the foreign protective order shall expire and shall not be reissued. If the applicant meets the qualifications for the issuance of a Kentucky domestic violence order, the court may, upon proper application and showing of evidence, issue a Kentucky order in accordance with this chapter.
- (4) The right of a person filing a foreign protective order to bring an action to enforce the order instead of proceeding under this chapter remains unimpaired.

Effective: January 1, 2016

History: Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 12, effective January 1, 2016. -- Amended 1998 Ky. Acts ch. 606, sec. 189, effective July 15, 1998. -- Created 1996 Ky. Acts ch. 99, sec. 6, effective July 15, 1996.

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403.7529 Authentication of foreign protective order.

- (1) Upon ex parte review of the foreign protective order and the affidavit filed pursuant to KRS 403.7527, 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:
 - (a) Direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with, if applicable; and
 - (b) Order its enforcement in any county of the Commonwealth in the same manner as an domestic violence order of this state issued pursuant to KRS 403.740.
- (3) 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: January 1, 2016

History: Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 13, effective January 1, 2016. -- Amended 1998 Ky. Acts ch. 606, sec. 190, effective July 15, 1998. -- Created 1996 Ky. Acts ch. 99, sec. 7, effective July 15, 1996.

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

- (1) A foreign protective order which has been entered into the Law Information Network of Kentucky shall be immediately cleared as an active record from the computer system when:
 - (a) The order expires according to its terms;
 - (b) 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
 - (c) 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 403.7527.
- (2) For validation purposes, the Law Information Network of Kentucky shall provide the circuit court clerk with a printout of foreign protective 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 those orders to be cleared from the Law Information Network of Kentucky.

Effective: January 1, 2016

History: Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 14, effective January 1, 2016. -- Created 1996 Ky. Acts ch. 99, sec. 8, effective July 15, 1996.

Legislative Research Commission Note (1/1/2016). In codification, the Reviser of Statutes has corrected a manifest clerical or typographical error in subsection (1)(c) of this statute by changing a reference to the time period for authentication of foreign protective orders to read "time period specified in KRS 403.7527," the section which contains the deadlines for authentication of foreign protective orders. The error was corrected under the authority of KRS 7.136(1).

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403.7535 Duty to notify court of change in foreign protective order.

- (1) A person who has filed a foreign protective order in a court in Kentucky is under a continuing obligation to inform the court of any expiration, vacation, modification, or other change in the order which the person filing the order has received from the issuing foreign court.
- (2) A person who has filed a foreign protective order in a court in Kentucky shall, within two (2) working days of the occurrence of any event specified in subsection (1) of this section, notify the clerk of the court in which the foreign protective order was filed of the fact of the changed order and present the clerk with a copy of the order for authentication as provided in this chapter. The clerk shall immediately 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 this section.
- (4) Intentional failure of a person who has filed 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: January 1, 2016

History: Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 15, effective January 1, 2016. -- Created 1996 Ky. Acts ch. 99, sec. 9, effective July 15, 1996.

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403.7539 Repealed, 2016. (Effective January 1, 2016)

Catchline at repeal: Civil and criminal proceedings for violations of foreign protective orders.

History: Repealed 2015 Ky. Acts ch. 102, sec. 51, effective January 1, 2016. -- Amended 1998 Ky. Acts ch. 606, sec. 191, effective July 15, 1998. -- Created 1996 Ky. Acts ch. 99, sec. 10, effective July 15, 1996.

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403.754 Petitioner for protective order may apply for temporary permit to carry concealed deadly weapon -- Criteria -- Denial of application final -- Conversion to concealed carry license -- Automated listing of temporary permit holders.

- (1) A petitioner for an order of protection granted under KRS 403.715 to 403.785 may apply for a temporary permit to carry a concealed deadly weapon on or about his or her person into those places and under the same conditions as a person holding a carry concealed deadly weapon license issued under KRS 237.110.
- (2) To request a temporary permit authorized by this section, the petitioner shall apply electronically for a license to carry a concealed deadly weapon in the manner set forth in KRS 237.110 and administrative regulation promulgated by the Department of Kentucky State Police, unless the electronic application is unavailable. If the electronic application is unavailable, applications for temporary permits under this section shall not be accepted.
- (3) Prior to the issuance of a temporary permit authorized by this section, the Department of Kentucky State Police, upon receipt of a completed application, application fee, and any documentation required by KRS 237.110 or administrative regulation promulgated by the Department of Kentucky State Police, shall conduct the background check as set forth in KRS 237.110.
- (4) The Department of Kentucky State Police shall issue a temporary permit authorized by this section if the applicant is not disqualified under the standards set forth in KRS 237.110(4)(a) to (h).
- (5) A temporary permit issued under this section shall be valid for forty-five (45) days from the date of issuance and not be subsequently extended or reissued. A temporary permit which has expired shall be void and shall not be valid for any purpose.
- (6) The Department of Kentucky State Police shall, within one (1) working day or as soon as practically possible after the date of receipt of the completed application, a recent color photograph of the applicant, and, for applicants who are not citizens of the United States, any documentation required under KRS 237.110, either issue the temporary permit or deny the application based solely on the grounds that the applicant fails to qualify under the criteria set forth in KRS 237.110.
- (7) In order to convert the temporary permit issued under this section into a license to carry a concealed deadly weapon issued under KRS 237.110, the applicant shall meet the firearms safety training requirement under KRS 237.110(4) within the forty-five (45) day period the temporary permit is valid. If firearms safety training is not completed within the forty-five (45) day temporary permit period, a new application for a license to carry a concealed deadly weapon shall be required.
- (8) If the Department of Kentucky State Police denies the application for a temporary permit, that decision shall be final but the applicant's application for a license to carry a concealed deadly license shall continue to be processed and either issued or denied in accordance with KRS 237.110.
- (9) The holder of a permit issued under this section shall carry the permit at all times the permit holder is carrying a concealed firearm or other deadly weapon and shall

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display the permit upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the District Court, but no court costs shall be assessed.

- (10) The Department of Kentucky State Police shall maintain an automated listing of temporary permit holders and pertinent information under the same circumstances and restrictions set forth in KRS 237.110.
- (11) Nothing in this section shall authorize the carrying of a concealed deadly weapon by a person prohibited from possessing such a weapon by state or federal law.

Effective: July 15, 2014

History: Created 2014 Ky. Acts ch. 120, sec. 4, effective July 15, 2014.

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403.755 Repealed, 2016. (Effective January 1, 2016)

Catchline at repeal: Enforcement by law enforcement agency.

History: Repealed 2015 Ky. Acts ch. 102, sec. 51, effective January 1, 2016. -- Amended 1992 Ky. Acts ch. 172, sec. 9, effective July 14, 1992. -- Created 1984 Ky. Acts ch. 152, sec. 9, effective July 13, 1984.

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403.760 Repealed, 2016. **(Effective January 1, 2016)**

Catchline at repeal: Contempt of court.

History: Repealed 2015 Ky. Acts ch. 102, sec. 51, effective January 1, 2016. -- Amended 1992 Ky. Acts ch. 172, sec. 10, effective July 14, 1992. -- Created 1984 Ky. Acts ch. 152, sec. 10, effective July 13, 1984.

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403.761 Amendment of domestic violence order to require participation in global positioning monitoring system -- Cost to be paid by respondent and system operator -- Shortening or vacating of order -- Penalty for violation.

- (1) Upon a petitioner's request and after an evidentiary hearing, a court may amend a domestic violence order to require a respondent to participate in a global positioning monitoring system if:
 - (a) The respondent has committed a substantial violation of a previously entered domestic violence order;
 - (b) The court has reviewed an updated history of the respondent's Kentucky criminal and protective order history; and
 - (c) The court makes a factual determination that the use of a global positioning monitoring system would increase the petitioner's safety.
- (2) An order requiring participation in a global positioning monitoring system shall:
 - (a) Require the respondent to pay the cost of participation up to the respondent's ability to pay, with the system operator bearing any uncovered costs for indigent respondents;
 - (b) State with specificity the locations or areas where the respondent is prohibited from being located or persons with whom the respondent shall have no contact;
 - (c) Include the date that the order expires, which shall be no longer than the expiration date of the domestic violence order, although participation may be extended if the underlying order is extended;
 - (d) Require the entity that operates the monitoring system to immediately notify the petitioner, the local law enforcement agency named in the order, and the court if a respondent violates the order; and
 - (e) Include any other information as the court deems appropriate.
- (3) The Administrative Office of the Courts shall prepare a publicly available informational pamphlet containing information on the method of applying for, hearing, amending, and terminating an order requiring participation in a global positioning monitoring system.
- (4)
 - (a) The Supreme Court may establish by rule a sliding scale of payment responsibility for indigent defendants for use in establishing required payments under subsection (2) of this section.
 - (b) A person, county, or other organization may voluntarily agree to pay all or a portion of a respondent's monitoring costs specified in this section.
- (5) An order requiring participation in a global positioning monitoring system may be shortened or vacated by the court either:
 - (a) Upon request of the petitioner; or
 - (b) Upon request of the respondent after an evidentiary hearing, if the respondent has not violated the order and:
 1. Three (3) months have elapsed since the entry of the order; and

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2. No previous request has been made by the respondent in the previous six (6) months.
- (6) A respondent who fails to wear, removes, tampers with, or destroys a global positioning monitoring system device in contravention of an order entered under this section shall be guilty of a Class D felony.

Effective: January 1, 2016

History: Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 16, effective January 1, 2016. -- Amended 2014 Ky. Acts ch. 141, sec. 5, effective July 15, 2014. -- Created 2010 Ky. Acts ch. 170, sec. 7, effective July 15, 2010.

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403.762 Repealed, 2016. **(Effective January 1, 2016)**

Catchline at repeal: Request for modification of global positioning monitoring order
-- Hearing.

History: Repealed 2015 Ky. Acts ch. 102, sec. 51, effective January 1, 2016. --
Created 2010 Ky. Acts ch. 170, sec. 8, effective July 15, 2010.

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403.763 Violation of order of protection constitutes contempt of court and criminal offense.

- (1) Violation of the terms or conditions of an order of protection after the person has been served or given notice of the order shall constitute contempt of court and a criminal offense under this section. Once a criminal or contempt proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.
- (2) (a) Court proceedings for contempt of court for violation of an order of protection shall be held in the county where the order was issued or filed.
(b) Court proceedings for a criminal violation of an order of protection shall follow the rules of venue applicable to criminal cases generally.
- (3) Nothing in this section shall preclude the Commonwealth from prosecuting and convicting the respondent of criminal offenses other than violation of an order of protection.
- (4) (a) A person is guilty of a violation of an order of protection when he or she intentionally violates the provisions of an order of protection after the person has been served or given notice of the order.
(b) Violation of an order of protection is a Class A misdemeanor.

Effective: January 1, 2016

History: Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 17, effective January 1, 2016. -- Created 1992 Ky. Acts ch. 172, sec. 15, effective July 14, 1992.

Legislative Research Commission Note (1/1/2016). In 2015 Ky. Acts ch. 102, sec. 17, this statute was repealed and reenacted with language substantially different from that contained in the version current at that time. In Section 51 of that Act, KRS 403.763 (this statute) was also included in the list of statutes to be repealed. In codification, the Reviser of Statutes has determined that there was no intention to both repeal and reenact the same statute and that the inclusion of KRS 403.763 in the list of statutes to be repealed was a manifest clerical or typographical error. As such, that repeal will not prevail over its repeal and reenactment in the same Act under the authority of KRS 7.136(1)(h).

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403.765 Repealed, 2016. (Effective January 1, 2016)

Catchline at repeal: Certification of existence of domestic violence protective orders
-- Efficacy of existing orders.

History: Repealed 2015 Ky. Acts ch. 102, sec. 51, effective January 1, 2016. -- Amended 1996 Ky. Acts ch. 99, sec. 11, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 172, sec. 11, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 258, sec. 6, effective July 15, 1988. -- Created 1984 Ky. Acts ch. 152, sec. 11, effective July 13, 1984.

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403.770 Repealed, 2016. (Effective January 1, 2016)

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

History: Repealed 2015 Ky. Acts ch. 102, sec. 51, effective January 1, 2016. -- Amended 1996 Ky. Acts ch. 99, sec. 12, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 172, sec. 12, effective July 14, 1992. -- Created 1984 Ky. Acts ch. 152, sec. 12, effective July 13, 1984.

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403.771 Repealed, 2016. **(Effective January 1, 2016)**

Catchline at repeal: Printout of foreign orders -- Annual validation.

History: Repealed 2015 Ky. Acts ch. 102, sec. 51, effective January 1, 2016. --
Created 1996 Ky. Acts ch. 99, sec. 17, effective July 15, 1996.

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403.775 Repealed, 2016. **(Effective January 1, 2016)**

Catchline at repeal: Effect of petitioner's leaving residence.

History: Repealed 2015 Ky. Acts ch. 102, sec. 51, effective January 1, 2016. --
Created 1984 Ky. Acts ch. 152, sec. 13, effective July 13, 1984.

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403.780 Repealed, 2016. (Effective January 1, 2016)

Catchline at repeal: Testimony not admissible in criminal proceeding.

History: Repealed 2015 Ky. Acts ch. 102, sec. 51, effective January 1, 2016. --
Created 1984 Ky. Acts ch. 152, sec. 14, effective July 13, 1984.

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403.783 Repealed, 2007.

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

History: Repealed 2007 Ky. Acts ch. 85, sec. 334, effective June 26, 2007. -- Amended 2005 Ky. Acts ch. 99, sec. 628, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 14, sec. 52, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 426, sec. 582, effective July 15, 1998. -- Created 1996 Ky. Acts ch. 54, sec. 7, effective July 15, 1996.

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403.784 Repealed, 2005.

Catchline at repeal: Training and continuing education courses for law enforcement officers.

History: Repealed 2005 Ky. Acts ch. 132, sec. 32, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 317, sec. 5, effective July 14, 2000. -- Created 1996 Ky. Acts ch. 54, sec. 8, effective July 15, 1996.

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403.785 Duties of law enforcement officers and agencies.


- (1) A court issuing an order of protection shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with.
- (2) When a law enforcement officer has reason to suspect that a person has been the victim of domestic violence and abuse, the officer shall use all reasonable means to provide assistance to the victim, including but not limited to:
 - (a) Remaining at the location of the call for assistance so long as the officer reasonably suspects there is danger to the physical safety of individuals there without the presence of a law enforcement officer;
 - (b) Assisting the victim 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 as provided in KRS 421.500, including the provisions of this chapter.
- (3) Orders of protection shall be enforced in any county of the Commonwealth.
- (4) Officers acting in good faith under this section shall be immune from criminal and civil liability.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 191, sec. 15, effective June 29, 2017. -- Repealed and reenacted 2015 Ky. Acts ch. 102, sec. 18, effective January 1, 2016. -- Amended 2005 Ky. Acts ch. 99, sec. 629, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 14, sec. 53, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 426, sec. 583, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 54, sec. 9, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 172, sec. 13, effective July 14, 1992. -- Created 1984 Ky. Acts ch. 152, sec. 15, effective July 13, 1984.

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403.800 Definitions for KRS 403.800 to 403.880.

As used in KRS 403.800 to 403.880:

- (1) "Abandoned" means left without provision for reasonable and necessary care or supervision;
- (2) "Child" means an individual who has not attained eighteen (18) years of age;
- (3) "Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes permanent, temporary, initial, and modification orders. The term does not include an order relating to child support or other monetary obligation of an individual;
- (4) "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under Article 3;
- (5) "Commencement" means the filing of the first pleading in a proceeding;
- (6) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination;
- (7) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six (6) consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six (6) months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period;
- (8) "Initial determination" means the first child custody determination concerning a particular child;
- (9) "Issuing court" means the court that makes a child custody determination for which enforcement is sought under KRS 403.800 to 403.880;
- (10) "Issuing state" means the state in which a child custody determination is made;
- (11) "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination;
- (12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity;
- (13) "Person acting as a parent" means a person, other than a parent, who:
 - (a) Has physical custody of the child or has had physical custody for a period of six (6) consecutive months, including any temporary absence, within one (1) year immediately before the commencement of a child custody proceeding;

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and

- (b) Has been awarded legal custody by a court or claims a right to legal custody under the law of this state;
- (14) "Physical custody" means the physical care and supervision of a child;
- (15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;
- (16) "Tribe" means an Indian tribe or band, or Alaskan Native village, which is recognized by federal law or formally acknowledged by a state; and
- (17) "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 1, effective July 13, 2004.

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403.802 Proceedings governed by other law.

KRS 403.800 to 403.880 shall not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 2, effective July 13, 2004.

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403.804 Application to Indian tribes.

- (1) A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. secs. 1901 et seq., is not subject to KRS 403.800 to 403.880 to the extent that it is governed by the Indian Child Welfare Act.
- (2) A court of this state shall treat a tribe as if it were a state of the United States for the purpose of applying Articles 1 and 2.
- (3) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of KRS 403.800 to 403.880 shall be recognized and enforced under Article 3.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 3, effective July 13, 2004.

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403.806 International application.

- (1) A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying Articles 1 and 2.
- (2) Except as otherwise provided in subsection (3) of this section, a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of KRS 403.800 to 403.880 shall be recognized and enforced under Article 3.
- (3) A court of this state need not apply KRS 403.800 to 403.880 if the child custody law of a foreign country violates fundamental principles of human rights.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 4, effective July 13, 2004.

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403.808 Effect of child custody determination.

A child custody determination made by a court of this state that had jurisdiction under KRS 403.800 to 403.880 binds all persons who have been served in accordance with the laws of this state or notified in accordance with KRS 403.812 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 5, effective July 13, 2004.

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403.810 Priority.

If a question of existence or exercise of jurisdiction under KRS 403.800 to 403.880 is raised in a child custody proceeding, the question, upon request of a party, shall be given priority on the calendar and handled expeditiously.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 6, effective July 13, 2004.

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403.812 Notice to persons outside state.

- (1) Notice required for the exercise of jurisdiction when a person is outside this state shall be given in a manner prescribed by the law of this state for service of process or by the law of the state in which the service is made. Notice shall be given in a manner reasonably calculated to give actual notice but may be by warning order if other means are not effective.
- (2) Proof of service shall be made in the manner prescribed by the law of this state or by the law of the state in which the service is made.
- (3) Notice shall not be required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 7, effective July 13, 2004.

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403.814 Appearance and limited immunity.

- (1) A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in this state for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.
- (2) A person who is subject to personal jurisdiction in this state on a basis other than physical presence is not immune from service of process in this state. A party present in this state who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.
- (3) The immunity granted by subsection (1) of this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under KRS 403.800 to 403.880 committed by an individual while present in this state.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 8, effective July 13, 2004.

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403.816 Communication between courts.

- (1) A court of this state may communicate with a court in another state concerning a proceeding arising under KRS 403.800 to 403.880.
- (2) The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they shall be given an opportunity to present facts and legal arguments before a decision on jurisdiction is made.
- (3) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.
- (4) Except as otherwise provided in subsection (3) of this section, a record shall be made of a communication under this section. The parties shall be informed promptly of the communication and granted access to the record.
- (5) As used in this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 9, effective July 13, 2004.

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403.818 Taking testimony in another state.

- (1) In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.
- (2) A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.
- (3) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing shall not be excluded from evidence on an objection based on the means of transmission.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 10, effective July 13, 2004.

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403.820 Cooperation between courts -- Preservation of records.


- (1) A court of this state may request the appropriate court of another state to:
 - (a) Hold an evidentiary hearing;
 - (b) Order a person to produce or give evidence pursuant to procedures of that state;
 - (c) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;
 - (d) Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; or
 - (e) Order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.
- (2) Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subsection (1) of this section.
- (3) Travel and other necessary and reasonable expenses incurred under subsections (1) and (2) of this section may be assessed against the parties according to the law of this state.
- (4) A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child attains eighteen (18) years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 11, effective July 13, 2004.

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403.822 Initial child custody jurisdiction.

- (1) Except as otherwise provided in KRS 403.828, a court of this state shall have jurisdiction to make an initial child custody determination only if:
 - (a) This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six (6) months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state; or
 - (b) A court of another state does not have jurisdiction under paragraph (a) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under KRS 403.834 or 403.836; and
 1. The child and the child's parents, or the child and at least one (1) parent or a person acting as a parent, have a significant connection with this state other than mere physical presence; and
 2. Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships; or
 - (c) All courts having jurisdiction under paragraph (a) or (b) of this subsection have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under KRS 403.834 or 403.836; or
 - (d) No court of any other state would have jurisdiction under the criteria specified in paragraph (a), (b), or (c) of this subsection.
- (2) Subsection (1) of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this state.
- (3) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 12, effective July 13, 2004.

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403.824 Exclusive, continuing jurisdiction.


- (1) Except as otherwise provided in KRS 403.828, a court of this state which has made a child custody determination consistent with KRS 403.822 or 403.826 has exclusive, continuing jurisdiction over the determination until:
 - (a) A court of this state determines that neither the child, nor the child and one (1) parent, nor the child and a person acting as a parent have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or
 - (b) A court of this state or a court of another state determines that the child, the child's parents, and any other person acting as a parent do not presently reside in this state.
- (2) A court of this state which has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under KRS 403.822.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 13, effective July 13, 2004.

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403.826 Jurisdiction to modify determination.

Except as otherwise provided in KRS 403.828, a court of this state shall not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under KRS 403.822(1)(a) or (b) and:

- (1) The court of the other state determines that it no longer has exclusive, continuing jurisdiction under KRS 403.824 or that a court of this state would be a more convenient forum under KRS 403.834; or
- (2) A court of this state or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 14, effective July 13, 2004.

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403.828 Temporary emergency jurisdiction.

- (1) A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.
- (2) If there is no previous child custody determination that is entitled to be enforced under KRS 403.800 to 403.880 and a child custody proceeding has not been commenced in a court of a state having jurisdiction under KRS 403.822, 403.824, and 403.826, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under KRS 403.822, 403.824, and 403.826. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under KRS 403.822, 403.824, and 403.826, a child custody determination made under this section becomes a final determination, if it so provides and this state becomes the home state of the child.
- (3) If there is a previous child custody determination that is entitled to be enforced under KRS 403.800 to 403.880, or a child custody proceeding has been commenced in a court of a state having jurisdiction under KRS 403.822, 403.824, and 403.826, any order issued by a court of this state under this section shall specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under KRS 403.822, 403.824, and 403.826. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.
- (4) A court of this state which has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under KRS 403.822, 403.824, and 403.826, shall immediately communicate with the other court. A court of this state which is exercising jurisdiction pursuant to KRS 403.822, 403.824, and 403.826, upon being informed that a child custody proceeding has been commenced in, or a child custody determination had been made by, a court of another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 15, effective July 13, 2004.

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403.830 Notice -- Opportunity to be heard -- Joinder.

- (1) Before a child custody determination is made under KRS 403.800 to 403.880, notice and an opportunity to be heard in accordance with the standards of KRS 403.812 shall be given to all persons entitled to notice under the law of this state as in child custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.
- (2) KRS 403.800 to 403.880 does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.
- (3) The obligation to join a party and the right to intervene as a party in a child custody proceeding under KRS 403.800 to 403.880 are governed by the law of this state as in child custody proceedings between residents of this state.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 16, effective July 13, 2004.

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403.832 Simultaneous proceedings.

- (1) Except as otherwise provided in KRS 403.828, a court of this state shall not exercise jurisdiction under Article 2 if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with KRS 403.800 to 403.880, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under KRS 403.834.
- (2) Except as otherwise provided in KRS 403.828, a court of this state, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to KRS 403.828. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with KRS 403.800 to 403.880, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with KRS 403.800 to 403.880 does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.
- (3) In a proceeding to modify a child custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:
 - (a) Stay the proceeding for modification pending the entry of an order of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;
 - (b) Enjoin the parties from continuing with the proceeding for enforcement; or
 - (c) Proceed with the modification under conditions it considers appropriate.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 17, effective July 13, 2004.

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403.834 Inconvenient forum.

- (1) A court of this state which has jurisdiction under KRS 403.800 to 403.880 to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.
- (2) Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:
 - (a) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;
 - (b) The length of time the child has resided outside this state;
 - (c) The distance between the court in this state and the court in the state that would assume jurisdiction;
 - (d) The relative financial circumstances of the parties;
 - (e) Any agreement of the parties as to which state should assume jurisdiction;
 - (f) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child;
 - (g) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and
 - (h) The familiarity of the court of each state with the facts and issues in the pending litigation.
- (3) If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.
- (4) A court of this state may decline to exercise its jurisdiction under KRS 403.800 to 403.880 if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 18, effective July 13, 2004.

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403.836 Jurisdiction declined by reason of conduct.

- (1) Except as otherwise provided in KRS 403.828, or by other law of this state, if a court of this state has jurisdiction under KRS 403.800 to 403.880 because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:
 - (a) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;
 - (b) A court of the state otherwise having jurisdiction under KRS 403.822, 403.824, and 403.826 determines that this state is a more appropriate forum under KRS 403.834; or
 - (c) No court of any other state would have jurisdiction under the criteria specified in KRS 403.822, 403.824, and 403.826.
- (2) If a court of this state declines to exercise its jurisdiction pursuant to subsection (1) of this section, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under KRS 403.822, 403.824, and 403.826.
- (3) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (1) of this section, it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court shall not assess fees, costs, or expenses against this state unless authorized by law other than KRS 403.800 to 403.880.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 19, effective July 13, 2004.

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403.838 Information to be submitted to court.

- (1) In a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five (5) years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit shall state whether the party:
 - (a) Has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child custody determination, if any;
 - (b) Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding; and
 - (c) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.
- (2) If the information required by subsection (1) of this section is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.
- (3) If the declaration as to any of the items described in subsection (1) of this section is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to the details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.
- (4) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.
- (5) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information shall be sealed and shall not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 20, effective July 13, 2004.

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403.840 Appearance of parties and child.

- (1) In a child custody proceeding in this state, the court may order a party to the proceeding who is in this state to appear before the court in person with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear in person with the child.
- (2) If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to KRS 403.812 include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.
- (3) The court may enter any order necessary to ensure the safety of the child and of any person ordered to appear under this section.
- (4) If a party to a child custody proceeding who is outside this state is directed to appear under subsection (2) of this section or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 21, effective July 13, 2004.

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403.842 Definitions for Article 3.

As used in Article 3:

- (1) "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination; and
- (2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 22, effective July 13, 2004.

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403.844 Enforcement under Hague Convention.

Under Article 3, a court of this state may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 23, effective July 13, 2004.

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403.846 Duty to enforce.

- (1) A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with KRS 403.800 to 403.880 or the determination was made under factual circumstances meeting the jurisdictional standards of KRS 403.800 to 403.880 and the determination has not been modified in accordance with KRS 403.800 to 403.880.
- (2) A court of this state may utilize any remedy available under other law of this state to enforce a child custody determination made by a court of another state. The remedies provided in Article 3 are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 24, effective July 13, 2004.

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403.848 Temporary visitation.

- (1) A court of this state which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:
 - (a) A visitation schedule made by a court of another state; or
 - (b) The visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.
- (2) If a court of this state makes an order under subsection (1)(b) of this section, it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in Article 2. The order shall remain in effect until an order is obtained from the other court or the period expires.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 25, effective July 13, 2004.

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403.850 Registration of child custody determination.

- (1) A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to a court with jurisdiction in this state:
 - (a) A letter or other document requesting registration;
 - (b) Two (2) copies, including one (1) certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and
 - (c) Except as otherwise provided in KRS 403.838, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.
- (2) On receipt of the documents required by subsection (1) of this section, the registering court shall:
 - (a) Cause the determination to be filed as a foreign judgment, together with one (1) copy of any accompanying documents and information, regardless of their form; and
 - (b) Serve notice upon the persons named pursuant to subsection (1)(c) of this section and provide them with an opportunity to contest the registration in accordance with this section.
- (3) The notice required by subsection (2)(b) of this section shall state that:
 - (a) A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state;
 - (b) A hearing to contest the validity of the registered determination shall be requested within twenty (20) days after service of notice; and
 - (c) Failure to contest the registration shall result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.
- (4) A person seeking to contest the validity of a registered order shall request a hearing within twenty (20) days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:
 - (a) The issuing court did not have jurisdiction under Article 2;
 - (b) The child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2; or
 - (c) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of KRS 403.812, in the proceedings before the court that issued the order for which registration is sought.
- (5) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served shall be notified of the confirmation.

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- (6) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 26, effective July 13, 2004.

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403.852 Enforcement of registered determination.

- (1) A court of this state may grant any relief normally available under the law of this state to enforce a registered child custody determination made by a court of another state.
- (2) A court of this state shall recognize and enforce, but shall not modify, except in accordance with Article 2, a registered child custody determination made by a court of another state.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 27, effective July 13, 2004.

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403.854 Simultaneous proceedings.

If a proceeding for enforcement under Article 3 is commenced in a court of this state and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under Article 2, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 28, effective July 13, 2004.

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403.856 Expedited enforcement of child custody determination.

- (1) A petition under Article 3 shall be verified. Certified copies of all orders sought to be enforced and of any order confirming registration shall be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.
- (2) A petition for enforcement of a child custody determination shall state:
 - (a) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;
 - (b) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision is entitled to enforcement under KRS 403.800 to 403.880 and, if so, identify the court, the case number, and the nature of the proceeding;
 - (c) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding;
 - (d) The present physical address of the child and the respondent, if known;
 - (e) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought; and
 - (f) If the child custody determination has been registered and confirmed under KRS 403.850, the date and place of registration.
- (3) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing shall be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.
- (4) An order issued under subsection (3) of this section shall state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under KRS 403.864, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:
 - (a) The child custody determination has not been registered and confirmed under KRS 403.850 and that:
 1. The issuing court did not have jurisdiction under Article 2;
 2. The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2; or
 3. The respondent was entitled to notice, but notice was not given in accordance with the standards of KRS 403.812, in the proceedings

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- before the court that issued the order for which enforcement is sought; or
- (b) The child custody determination for which enforcement is sought was registered and confirmed under KRS 403.850 but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 29, effective July 13, 2004.

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403.858 Service of petition and order.

Except as otherwise provided in KRS 403.862, the petition and order shall be served, by any method authorized by the law of this state, upon respondent and any person who has physical custody of the child.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 30, effective July 13, 2004.

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403.860 Hearing and order.

- (1) Unless the court issues a temporary emergency order pursuant to KRS 403.828, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:
 - (a) The child custody determination has not been registered and confirmed under KRS 403.850 and that:
 1. The issuing court did not have jurisdiction under Article 2;
 2. The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2; or
 3. The respondent was entitled to notice, but notice was not given in accordance with the standards of KRS 403.812, in the proceedings before the court that issued the order for which enforcement is sought; or
 - (b) The child custody determination for which enforcement is sought was registered and confirmed under KRS 403.850 but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2.
- (2) The court shall award the fees, costs, and expenses authorized under KRS 403.864 and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.
- (3) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.
- (4) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under Article 3.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 31, effective July 13, 2004.

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403.862 Warrant to take physical custody of child.

- (1) Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or be removed from this state.
- (2) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this state, it may issue a warrant to take physical custody of the child. The petition shall be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant shall include the statements required by KRS 403.856(2).
- (3) A warrant to take physical custody of a child shall:
 - (a) Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;
 - (b) Direct law enforcement officers to take physical custody of the child immediately; and
 - (c) Provide for the placement of the child pending final relief.
- (4) The respondent shall be served with the petition, warrant, and order immediately after the child is taken into physical custody.
- (5) A warrant to take physical custody of a child is enforceable throughout this state. If the court finds, on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.
- (6) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 32, effective July 13, 2004.

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403.864 Costs, fees, and expenses.

- (1) The court may award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.
- (2) The court shall not assess fees, costs, or expenses against a state unless authorized by law other than KRS 403.800 to 403.880.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 33, effective July 13, 2004.

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403.866 Recognition and enforcement.

A court of this state shall accord full faith and credit to an order issued by another state and consistent with KRS 403.800 to 403.880 which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 34, effective July 13, 2004.

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403.868 Appeals.

A party may move for an expedited appeal from a final order in a proceeding under Article 3. Unless the court enters a temporary emergency order under KRS 403.828, the enforcing court shall not stay an order enforcing a child custody determination pending appeal.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 35, effective July 13, 2004.

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403.870 Role of county attorney or other appropriate public official.

- (1) In a case arising under KRS 403.800 to 403.880 or involving the Hague Convention on the Civil Aspects of International Child Abduction, the county attorney or other appropriate public official may take any lawful action, including resort to a proceeding under Article 3 or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child custody determination if there is:
 - (a) An existing child custody determination;
 - (b) A request to do so from a court in a pending child custody proceeding;
 - (c) A reasonable belief that a criminal statute has been violated; or
 - (d) A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.
- (2) A county attorney or other appropriate public official acting under this section acts on behalf of the court and shall not represent any party.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 36, effective July 13, 2004.

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403.872 Role of peace officers.

At the request of a county attorney or other appropriate public official acting under KRS 403.870, a peace officer may take any lawful action reasonably necessary to locate a child or a party and assist a county attorney or other appropriate public official with responsibilities under KRS 403.870.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 37, effective July 13, 2004.

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403.874 Costs and expenses.

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the county attorney or other appropriate public official and peace officers under KRS 403.870 or 403.872.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 38, effective July 13, 2004.

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403.876 Application and construction of KRS 403.800 to 403.880.

In applying and construing KRS 403.800 to 403.880, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 39, effective July 13, 2004.

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403.878 Transitional provisions.

- (1) A motion or other request for relief made in a child custody proceeding or to enforce a child custody determination which was commenced before July 13, 2004, is governed by the law in effect at the time the motion or other request was made.
- (2) Custody decrees previously registered in this state under the provisions of KRS 403.400 to 403.620 shall be deemed registered under the provisions of KRS 403.800 to 403.880.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 40, effective July 13, 2004.

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403.880 Short title for KRS 403.800 to 403.880.

KRS 403.800 to 403.880 may be cited as the Uniform Child Custody Jurisdiction and Enforcement Act.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 133, sec. 41, effective July 13, 2004.

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404.010 Effect of marriage on wife's property -- Separate estate -- Subjection of estate to debts.

- (1) Marriage shall give to the husband, during the life of the wife, no estate or interest in the wife's property, real or personal, owned at the time or acquired after the marriage. During the existence of the marriage relationship the wife shall hold and own all her estate to her separate and exclusive use, and free from the debts, liabilities or control of her husband.
- (2) A married woman's estate shall be liable for her debts and responsibilities contracted before marriage, and for such contracted after marriage, except as provided in this chapter and in KRS Chapter 392.

Effective: July 13, 1984

History: Amended 1984 Ky. Acts ch. 111, sec. 161, effective July 13, 1984. -- Amended 1974 Ky. Acts ch. 268, sec. 1. -- Amended 1954 Ky. Acts ch. 21, sec. 1, effective June 17, 1954. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2127.

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404.020 Property rights -- Contract rights -- Transfer of personal property between husband and wife.

- (1) A married woman may acquire and hold property, real and personal, by gift, devise or descent, or by purchase, and may, in her own name, as if she were unmarried, sell and dispose of her personal property. She may make contracts, and sue and be sued, as a single woman. She may rent out her real estate, and collect, receive and recover in her own name the rents thereof, and make contracts for the improvement thereof.
- (2) A gift, transfer or assignment of personal property between husband and wife shall not be valid as to third persons, unless it is in writing, and acknowledged and recorded as chattel mortgages are required to be acknowledged and recorded; but the recording of any such writing shall not make valid any such gift, transfer or assignment that is fraudulent or voidable as to creditors or purchasers.

History: Amended 1974 Ky. Acts ch. 268, sec. 2. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2128.

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404.030 Conveyance or encumbrance of real property by married woman -- Husband's curtesy right -- Conveyance by married woman through agent.

- (1) A married woman may sell, convey or encumber any of her lands and chattels real, but such sale, conveyance or encumbrance shall not bar the husband's right to curtesy unless he joins in the instrument of sale, conveyance or encumbrance or releases his right to curtesy by separate instrument.
- (2) Any married woman may convey by agent any interest she has in real or personal property situated in this state if she could lawfully convey it in person. The conveyance shall be made by virtue of a power of attorney, executed and acknowledged or proven as deeds by married women are required to be.

Effective: October 1, 1942

History: Amended 1942 Ky. Acts ch. 152, secs. 4 and 6. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 508, 2129.

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404.040 Liability of husband for wife's debts.

The husband shall not be liable for any debt or responsibility of the wife contracted or incurred before or after marriage, except to the amount or value of the property he received from or by her by virtue of the marriage; but he shall be liable for necessaries furnished to her after marriage.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2130.

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404.050 When wife may convey or mortgage her real estate free from husband's claim.

When a husband has been adjudged mentally disabled by a court of competent jurisdiction, the wife, by judgment of a court of equity, may be empowered to sell and convey by her own deed, or to mortgage by appropriate instrument, any of her real estate freed as to it and its proceeds from any claim of her husband.

Effective: July 1, 1982

History: Amended 1982 Ky. Acts ch. 141, sec. 128, effective July 1, 1982. -- Amended 1978 Ky. Acts ch. 92, sec. 14, effective June 17, 1978. -- Amended 1942 Ky. Acts ch. 152, secs. 1 and 3. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2131.

Note: 1980 Ky. Acts ch. 396, sec. 139 would have amended this section effective July 1, 1982. However, 1980 Ky. Acts ch. 396 was repealed by 1982 Ky. Acts ch. 141, sec. 146, also effective July 1, 1982.

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404.060 Married women as parties to actions.

- (1) A married woman may sue, and be sued, as a single woman.
- (2) She may defend an action against her and her husband for herself, and for him also if he fail to defend.
- (3) If a husband desert his wife, she may bring or defend for him any action which he might bring or defend, and shall have the powers and rights with reference thereto which he would have had but for such desertion.
- (4) If a female party to an action marry, her husband may be made a party by a motion, causing the fact to be stated upon the record; and the action shall not be delayed by reason of the marriage.
- (5) But if a wife be adjudged mentally disabled, or imprisoned, the actions mentioned in subsections (1), (2) and (3), of this section must be prosecuted or defended by her guardian, conservator, or curator, if she have one, and if she have none, must be prosecuted by her next friend, or defended by her guardian ad litem.

Effective: July 1, 1982

History: Amended 1982 Ky. Acts ch. 141, sec. 129, effective July 1, 1982. --
Transferred 1952 Ky. Acts ch. 84, sec. 1, effective July 1, 1953, from C.C. sec. 34.

Note. 1980 Ky. Acts ch. 396, sec. 140 would have amended this section effective July 1, 1982. However, 1980 Ky. Acts ch. 396 was repealed by 1982 Ky. Acts ch. 141, sec. 146, also effective July 1, 1982.

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