AN ACT relating to controlled substances.

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

➔Section 1. KRS 72.026 is amended to read as follows:

(1) Unless another cause of death is clearly established, in cases requiring a post-mortem examination under KRS 72.025 the coroner or medical examiner shall take a blood sample and have it tested for the presence of any controlled substances which were in the body at the time of death.

(2) If a coroner or medical examiner determines that a drug overdose is the cause of death of a person, he or she shall provide notice of the death to:

(a) The state registrar of vital statistics and the Department of Kentucky State Police. The notice shall include any information relating to the drug that resulted in the overdose. The state registrar of vital statistics shall not enter the information on the deceased person's death certificate unless the information is already on the death certificate;~~[and]~~

(b) The licensing board for the individual who prescribed or dispensed the medication, if known. The notice shall include any information relating to the drug that resulted in the overdose, including the individual authorized by law to prescribe or dispense drugs who dispensed or prescribed the drug to the decedent***; and***

(c) For coroners only, the Commonwealth's attorney and a local law enforcement agency in the circuit where the death occurred, if the death resulted from the use of a Schedule I controlled substance with the notice including all information as to the types and concentrations of Schedule I drugs detected.

This subsection shall not apply to reporting the name of a pharmacist who dispensed a drug based on a prescription.

(3) The state registrar of vital statistics shall report, within five (5) business days of the

receipt of a certified death certificate or amended death certificate, to the Division of Kentucky State Medical Examiners Office, any death which has resulted from the use of drugs or a drug overdose.

(4) The Justice and Public Safety Cabinet in consultation with the Kentucky State Medical Examiners Office shall promulgate administrative regulations necessary to administer this section.

➔Section 2. KRS 189A.010 is amended to read as follows:

(1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:

(a) Having an alcohol concentration of 0.08 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle;

(b) While under the influence of alcohol;

(c) While under the influence of any other substance or combination of substances which impairs one's driving ability;

(d) While the presence of a controlled substance listed in subsection (12) of this section is detected in the blood, as measured by a scientifically reliable test, or tests, taken within two (2) hours of cessation of operation or physical control of a motor vehicle;

(e) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or

(f) Having an alcohol concentration of 0.02 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle, if the person is under the age of twenty-one (21).

(2) ***(a)*** With the exception of the results of the tests administered pursuant to KRS

189A.103(7), if the sample of the person's blood or breath that is used to determine the alcohol concentration thereof was obtained more than two (2) hours after cessation of operation or physical control of a motor vehicle, the results of the test or tests shall be inadmissible as evidence in a prosecution under subsection (1)(a) or (f) of this section. The results of the test or tests, however, may be admissible in a prosecution under subsection (1)(b) or (e) of this section.

(b) With the exception of the results of the tests administered pursuant to KRS 189A.103(7), if the sample of the person's blood that is used to determine the presence of a controlled substance was obtained more than two (2) hours after cessation of operation or physical control of a motor vehicle, the results of the test or tests shall be inadmissible as evidence in a prosecution under subsection (1)(d) of this section. The results of the test or tests, however, may be admissible in a prosecution under subsection (1)(c) or (e) of this section.

(3) In any prosecution for a violation of subsection (1)(b) or (e) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood or breath shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and

(b) If there was an alcohol concentration of 0.05 or greater but less than 0.08 based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with

other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (e) of this section.

(4) (a) Except as provided in paragraph (b) of this subsection, the fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(b) A laboratory test or tests for a controlled substance shall be inadmissible as evidence in a prosecution under subsection (1)(d) of this section upon a finding by the court that the defendant consumed the substance under a valid prescription from a practitioner, as defined in KRS 218A.010, acting in the course of his or her professional practice. ***The results of the test or tests, however, may be admissible in a prosecution under subsection (1)(c) or (e) of this section.***

(5) Any person who violates the provisions of paragraph (a), (b), (c), (d), or (e) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500), or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days, or both. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both. If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in

physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be four (4) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release;

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be fourteen (14) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release;

(c) For a third offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be sixty (60) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release;

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be two hundred forty (240) days, which term shall not be suspended,

probated, conditionally discharged, or subject to any other form of release; and

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state or jurisdiction, for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(f) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(6) Any person who violates the provisions of subsection (1)(f) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this subsection shall not be subject to the penalties established in subsection (5) of this section or any other penalty established pursuant to KRS Chapter 189A, except those established in KRS 189A.040(1).

(7) If the person is under the age of twenty-one (21) and there was an alcohol concentration of 0.08 or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection (5) of this section.

(8) For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred

twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(9) When sentencing persons under subsection (5)(a) of this section, at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(10) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(11) For purposes of this section, aggravating circumstances are any one (1) or more of the following:

(a) Operating a motor vehicle in excess of thirty (30) miles per hour above the speed limit;

(b) Operating a motor vehicle in the wrong direction on a limited access highway;

(c) Operating a motor vehicle that causes an accident resulting in death or serious physical injury as defined in KRS 500.080;

(d) Operating a motor vehicle while the alcohol concentration in the operator's blood or breath is 0.15 or more as measured by a test or tests of a sample of the operator's blood or breath taken within two (2) hours of cessation of operation of the motor vehicle;

(e) Refusing to submit to any test or tests of one's blood, breath, or urine requested by an officer having reasonable grounds to believe the person was operating or in physical control of a motor vehicle in violation of subsection (1) of this section; and

(f) Operating a motor vehicle that is transporting a passenger under the age of twelve (12) years old.

(12) The substances applicable to a prosecution under subsection (1)(d) of this section are:

(a) Any Schedule I controlled substance except marijuana;

(b) Alprazolam;

(c) Amphetamine;

(d) Buprenorphine;

(e) Butalbital;

(f) Carisoprodol;

(g) Cocaine;

(h) Diazepam;

(i) Hydrocodone;

(j) Meprobamate;

(k) Methadone;

(l) Methamphetamine;

(m) Oxycodone;

(n) Promethazine;

(o) Propoxyphene; and

(p) Zolpidem.

➔Section 3. KRS 196.286 is amended to read as follows:

(1) The department shall measure and document cost savings resulting from amendments to or creation of statutes in KRS Chapter 218A contained in 2011 Ky. Acts ch. 2, secs. 5 to 22. Measured and documented savings shall be reinvested or distributed as provided in this section.

(2) The Department of Corrections shall establish a baseline for measurement using the average number of inmates incarcerated at each type of penitentiary as defined in KRS 197.010 and at local jails in fiscal year 2010-2011.

(3) The department shall determine the average cost of incarceration for each type of

penitentiary as defined in KRS 197.010 and for local jails, including health care costs, transportation costs, and other related costs, for one (1) inmate for one (1) year for the immediately preceding fiscal year.

(4) Beginning with the budget request for the 2012-2014 fiscal biennium, savings shall be estimated using the baseline established in subsection (2) of this section to determine the estimated average reduction of inmates due to the implementation of amendments to or creation of statutes in KRS Chapter 218A contained in 2011 Ky. Acts ch. 2, secs. 5 to 22 and multiplied by the appropriate average cost determined in subsection (3) of this section.

(5) ***Twenty-five percent (25%) of*** the estimated amount of savings shall be used ***to provide supplemental funding for KY-ASAP programs operating under KRS Chapter 15A and the remainder shall be used*** solely for expanding and enhancing treatment programs that employ evidence-based or promising practices designed to reduce the likelihood of future criminal behavior, which shall include treatment programs at existing facilities as outlined in KRS 196.287.

(6) The amount of savings shall be estimated each year of the 2012-2014 fiscal biennium, and for each year of each fiscal biennium thereafter, as specified in subsection (4) of this section.

(7) In submitting its budget request for the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the department shall estimate the amount of savings measured under this section, and shall request the amount necessary to distribute or allocate those savings as provided in subsection (5) of this section.

(8) In enacting the budget for the department, beginning in the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the General Assembly shall determine the estimated amount necessary for reinvestment in programs and initiatives as provided by subsection (5) of this section, based upon projected savings as measured by this section, and shall ensure that appropriations to the

department are sufficient to meet the funding requirements of this section.

➔Section 4. KRS 196.288 is amended to read as follows:

(1) The department shall measure and document cost savings resulting from amendments to or creation of statutes in KRS Chapters 27A, 196, 197, 431, 439, 532, 533, and 534 contained in 2011 Ky. Acts ch. 2. Measured and documented savings shall be reinvested or distributed as provided in this section.

(2) The department shall establish a baseline for measurement using the average number of inmates incarcerated at each type of penitentiary as defined in KRS 197.010 and at local jails in fiscal year 2010-2011.

(3) The department shall determine the average cost of:

(a) Incarceration for each type of penitentiary as defined in KRS 197.010 and for local jails, including health care costs, transportation costs, and other related costs, for one (1) inmate for one (1) year for the immediately preceding fiscal year; and

(b) Providing probation and parole services for one (1) parolee for one (1) year for the immediately preceding fiscal year.

(4) Beginning with the budget request for the 2012-2014 fiscal biennium, savings shall be estimated from the baseline established in subsection (2) of this section as follows:

(a) The estimated average reduction of inmates due to mandatory reentry supervision as required by KRS 439.3406 multiplied by the appropriate average cost as determined in subsection (3)(a) of this section;

(b) The estimated average reduction of inmates due to accelerated parole hearings as required by KRS 439.340 multiplied by the appropriate average cost as determined in subsection (3)(a) of this section;

(c) The estimated average increase of parolees due to paragraphs (a) and (b) of this subsection multiplied by the average cost as determined in subsection

(3)(b) of this section; and

(d) The estimated average reduction of parolees due to parole credit for good behavior as provided in KRS 439.345 multiplied by the average cost as determined in subsection (3)(b) of this section.

(5) The following amounts shall be allocated or distributed from the estimated amount of savings that would otherwise remain in the general fund:

(a) Twenty-five percent (25%) shall be distributed to the local corrections assistance fund established by KRS 441.207;~~[and]~~

(b) ***Twenty-five percent (25%) shall be distributed to provide supplemental funding for KY-ASAP programs operating under KRS Chapter 15A; and***

(c) In enacting the budget for the department and the judicial branch, beginning in the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the General Assembly shall:

1. Determine the estimated amount necessary for reinvestment in:

a. Expanded treatment programs and expanded probation and parole services provided by or through the department; and

b. Additional pretrial services and drug court case specialists provided by or through the Administrative Office of the Courts; and

2. Shall allocate and appropriate sufficient amounts to fully fund these reinvestment programs.

(6) The amount of savings shall be estimated each year of the 2012-2014 fiscal biennium, and for each year of each fiscal biennium thereafter, as specified in subsection (4) of this section.

(7) (a) In submitting its budget request for the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the department shall estimate the amount of savings measured under this section and shall request the amount necessary to

distribute or allocate those savings as provided in subsection (5) of this section.

(b) In submitting its budget request for the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the judicial branch shall request the amount necessary to distribute or allocate those savings as provided in subsection (5) of this section.

➔Section 5. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The Department for Medicaid Services shall provide a substance abuse benefit consistent with federal laws and regulations which shall include a broad array of treatment options for those with heroin and other opiate abuse disorders. At a minimum, these options, if affordable as determined by the department, shall include assessment, crisis residential, mobile crisis, outpatient, intensive outpatient treatment, and residential treatment and opioid antagonist therapy.

(2) The department shall promulgate administrative regulations to implement this section and to expand the behavioral health network to allow providers to provide services within their licensure category.

(3) Providers of peer-mediated, recovery-oriented, therapeutic community models of care, such as those operated by Recovery Kentucky, shall have the opportunity to contract with managed care organizations to be reimbursed for any portion of those services that are provided by licensed or certified providers in accordance with approved billing codes.

(4) Beginning January 1, 2015, the Department for Medicaid Services shall provide an annual report to the Legislative Research Commission detailing the number of providers of substance abuse treatment, the type of services offered by each provider, the geographic distribution of providers, and a summary of expenditures on substance abuse treatment services provided by Medicaid.

➔Section 6. KRS 217.186 is amended to read as follows:

(1) A licensed health-care provider who, acting in good faith, directly or by standing order, prescribes or dispenses the drug naloxone to a ***person or agency***~~[patient]~~ who, in the judgment of the health-care provider, is capable of administering the drug for an emergency opioid overdose, shall not, as a result of his or her acts or omissions, be subject to disciplinary or other adverse action under KRS Chapter 311, 311A, 314, or 315 or any other professional licensing statute.

(2) A prescription for naloxone may include authorization for administration of the drug to the person for whom it is prescribed by a third party if the prescribing instructions indicate the need for the third party upon administering the drug to immediately notify a local public safety answering point of the situation necessitating the administration.

(3) A peace officer, firefighter, paramedic, or emergency medical technician may receive a naloxone prescription, possess naloxone, and administer naloxone to an individual suffering from an apparent opiate-related overdose.

(4) A person acting in good faith who administers naloxone as the third party under this section shall be immune from criminal and civil liability for the administration, unless personal injury results from the gross negligence or willful or wanton misconduct of the person administering the drug.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person shall have a defense for a violation of a criminal offense prohibiting the possession of a controlled substance or the possession of drug paraphernalia if:

(a) The person in good faith seeks medical assistance from a public safety answering point, emergency medical services, a law enforcement officer, or a health practitioner for a person experiencing a drug overdose;

(b) The person remains with the overdose victim until the requested assistance

arrives or is provided; and

(c) The conduct for which the defense is asserted arises from the same course of events from which the drug overdose arose.

(2) The defense provided in subsection (1) of this section:

(a) Shall extend to the person who suffered the drug overdose if, subsequent to the person being charged with a violation of KRS Chapter 218A and prior to trial, the person participates in and demonstrates suitable compliance with the terms of a secular or faith-based substance abuse treatment or recovery program if space is available in a program appropriate to that person; but

(b) Shall not extend to the investigation and prosecution of any other crimes committed by a person who otherwise qualifies for the defense under this section, including a trafficking prosecution based upon possession with the intent to traffic in the controlled substance.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

Substance abuse treatment or recovery service providers that receive state funding shall give pregnant women priority in accessing services and shall not refuse access to services solely due to pregnancy as long as the provider's services are appropriate for pregnant women.

➔Section 9. KRS 218A.040 is amended to read as follows:

(1) The Cabinet for Health and Family Services shall place a substance in Schedule I if it finds that the substance:

(a) ~~[(1)]~~ Has high potential for abuse; and

(b) ~~[(2)]~~ Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

(2) Death resulting from an overdose of a Schedule I controlled substance is a

foreseeable result of the consumption or use of the substance.

➔Section 10. KRS 218A.1412 is amended to read as follows:

(1) A person is guilty of trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in:

(a) Four (4) grams or more of ***a substance containing a detectable amount of*** cocaine;

(b) Two (2) grams or more of ***a substance containing a detectable amount of*** heroin or methamphetamine;

(c) Ten (10) or more dosage units***, or the equivalent thereof,*** of a controlled substance that is classified in Schedules I or II and is a narcotic drug, or a controlled substance analogue;

(d) Any quantity of lysergic acid diethylamide; phencyclidine; gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers, and analogues; or flunitrazepam, including its salts, isomers, and salts of isomers; or

(e) Any quantity of a controlled substance specified in paragraph (a), (b), or (c) of this subsection in an amount less than the amounts specified in those paragraphs.

(2) The amounts specified in subsection (1) of this section may occur in a single transaction or may occur in a series of transactions over a period of time not to exceed ninety (90) days that cumulatively result in the quantities specified in this section.

(3) (a) Except as provided in paragraph (b) of this subsection, any person who violates the provisions of this section shall be guilty of a Class C felony for the first offense and a Class B felony for a second or subsequent offense. ***If the offense involves the defendant trafficking in one (1) or more substances containing a detectable amount of heroin or methamphetamine or both in***

an aggregate amount of four (4) grams or greater, the defendant shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed.

(b) Any person who violates the provisions of subsection (1)(e) of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second offense or subsequent offense.

(4) Upon the motion by the Commonwealth stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense, a sentencing court may impose in its judgment a minimum service of time requirement less than the fifty percent (50%) standard imposed under subsection (3)(a) of this section in consideration of the following:

(a) The court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the government's evaluation of the assistance rendered;

(b) The truthfulness, completeness, and reliability of any information or testimony provided by the defendant;

(c) The nature and extent of the defendant's assistance;

(d) Any injury suffered by, or any danger or risk of injury to the defendant or his family resulting from his or her assistance;

(e) The timelines of the defendant's assistance; and

(f) Any other information placed in the record by the Commonwealth.

➔Section 11. KRS 218A.1413 is amended to read as follows:

(1) A person is guilty of trafficking in a controlled substance in the second degree when:

(a) He or she knowingly and unlawfully traffics in:

1. Ten (10) or more dosage units of a controlled substance classified in

Schedules I and II that is not a narcotic drug; or specified in KRS 218A.1412, and which is not a synthetic drug, salvia, or marijuana; or

2. Twenty (20) or more dosage units of a controlled substance classified in Schedule III;

(b) He or she knowingly and unlawfully prescribes, distributes, supplies, or sells an anabolic steroid for:

1. Enhancing human performance in an exercise, sport, or game; or

2. Hormonal manipulation intended to increase muscle mass, strength, or weight in the human species without a medical necessity; or

(c) He or she knowingly and unlawfully traffics in any quantity of a controlled substance specified in paragraph (a) of this subsection in an amount less than the amounts specified in that paragraph.

(2) (a) Except as provided in paragraph (b) of this subsection, any person who violates the provisions of subsection (1) of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense.

(b) Any person who violates the provisions of subsection (1)(c) of this section shall be guilty of:

1. A Class D felony for the first offense, except that KRS ***532.060*** ~~[Chapter 532]~~ to the contrary notwithstanding, the ~~[maximum]~~ sentence to be imposed shall be ***one (1) to*** ~~[no greater than]~~ three (3) years; and

2. A Class D felony for a second offense or subsequent offense.

➔Section 12. KRS 218A.1414 is amended to read as follows:

(1) A person is guilty of trafficking in a controlled substance in the third degree when he or she knowingly and unlawfully traffics in:

(a) Twenty (20) or more dosage units of a controlled substance classified in Schedules IV or V; or

(b) Any quantity of a controlled substance specified in paragraph (a) of this subsection in an amount less than the amount specified in that paragraph.

(2) (a) Any person who violates the provisions of subsection (1)(a) of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for a second or subsequent offense**, *unless the offense involves trafficking in one hundred twenty (120) or more dosage units, in which case any offense shall be a Class D felony***.

(b) Any person who violates the provisions of subsection (1)(b) of this section shall be guilty of:

1. A Class A misdemeanor for the first offense, subject to the imposition of presumptive probation; and

2. A Class D felony for a second or subsequent offense, except that KRS ***532.060*** ~~[Chapter 532]~~ to the contrary notwithstanding, the ~~[maximum]~~ sentence to be imposed shall be ***one (1) to*** ~~[no greater than]~~ three (3) years.

➔Section 13. KRS 218A.500 is amended to read as follows:

As used in this section and KRS 218A.510:

(1) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. It includes but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

(h) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(i) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(k) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body; and

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic

pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips which mean objects used to hold burning material, such as marijuana cigarettes, that have become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice pipes or chillers.

(2) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter.

(3) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(5) ***This section shall not prohibit a local health department from operating, with the express approval of its board, a substance abuse treatment outreach program which allows participants to exchange hypodermic needles and syringes. Items***

exchanged through the program shall not be deemed drug paraphernalia under this section.

(6) Prior to searching a person, a person's premises, or a person's vehicle, a peace officer may ask the person whether the person is in possession of a hypodermic needle or other sharp object that may cut or puncture the officer or whether a hypodermic needle or other sharp object is on the premises or in the vehicle to be searched. If there is a hypodermic needle or other sharp object on the person, on the person's premises, or in the person's vehicle, and the person alerts the officer of that fact prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object or for possession of a controlled substance for residual or trace drug amounts present on the needle or sharp object. The exemption under this subsection shall not apply to any other drug paraphernalia that may be present and found during the search or to controlled substances present in other than residual or trace amounts.

(7) Any person who violates any provision of this section shall be guilty of a Class A misdemeanor.

➔Section 14. KRS 439.3401 is amended to read as follows:

(1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of:

(a) A capital offense;

(b) A Class A felony;

(c) A Class B felony involving the death of the victim or serious physical injury to a victim;

(d) An offense described in KRS 507.040 or 507.050 where the offense involves the killing of a peace officer or firefighter while the officer or firefighter was acting in the line of duty;

(e) The commission or attempted commission of a felony sexual offense described in KRS Chapter 510;

(f) Use of a minor in a sexual performance as described in KRS 531.310;

(g) Promoting a sexual performance by a minor as described in KRS 531.320;

(h) Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);

(i) Human trafficking under KRS 529.100 involving commercial sexual activity where the victim is a minor;

(j) Criminal abuse in the first degree as described in KRS 508.100;

(k) Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;

(l) Burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040; or

(m) Robbery in the first degree.

The court shall designate in its judgment if the victim suffered death or serious physical injury.

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

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

released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed.

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

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

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

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

(5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree

or sodomy in the first degree by the defendant.

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

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

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

➔Section 15. KRS 501.060 is amended to read as follows:

(1) Conduct is the cause of a result when it is an antecedent without which the result in question would not have occurred.

(2) When intentionally causing a particular result is an element of an offense, the element is not established if the actual result is not within the intention or the contemplation of the actor unless:

(a) The actual result differs from that intended or contemplated, as the case may be, only in the respect that a different person or different property is injured or affected or that the injury or harm intended or contemplated would have been more serious or more extensive; or

(b) The actual result involves the same kind of injury or harm as that intended or contemplated and occurs in a manner which the actor knows or should know is rendered substantially more probable by his conduct.

(3) When wantonly or recklessly causing a particular result is an element of an offense, the element is not established if the actual result is not within the risk of which the actor is aware or, in the case of recklessness, of which he should be aware unless:

(a) The actual result differs from the probable result only in the respect that a different person or different property is injured or affected or that the probable injury or harm would have been more serious or more extensive than that

caused; or

(b) The actual result involves the same kind of injury or harm as the probable result and occurs in a manner which the actor knows or should know is rendered substantially more probable by his conduct.

(4) The question of whether an actor knew or should have known the result he caused was rendered substantially more probable by his conduct is an issue of fact.

(5) In any case pertaining to an offense in violation of KRS Chapter 507 or 507A for a death which resulted from an overdose of a Schedule I controlled substance, it shall not be a defense to the establishment of causation under this section that the decedent contributed to his or her own death by the intentional, knowing, wanton, or reckless injection, inhalation, or ingestion of the substance or by consenting to the administration of the substance by another, or that the defendant had no direct knowledge of or contact with the ultimate decedent.

➔Section 16. KRS 625.050 is amended to read as follows:

(1) A petition for involuntary termination of parental rights shall be entitled "In the interest of ..., a child."

(2) The petition shall be filed in the Circuit Court for any of the following counties:

(a) The county in which either parent resides or may be found;

(b) The county in which juvenile court actions, if any, concerning the child have commenced; or

(c) The county in which the child involved resides or is present.

(3) Proceedings for involuntary termination of parental rights may be initiated upon petition by the cabinet, any child-placing agency licensed by the cabinet, any county or Commonwealth's attorney or parent.

(4) The petition for involuntary termination of parental rights shall be verified and contain the following:

(a) Name and mailing address of each petitioner;

(b) Name, sex, date of birth and place of residence of the child;

(c) Name and address of the living parents of the child;

(d) Name, date of death and cause of death, if known, of any deceased parent;

(e) Name and address of the putative father, if known by the petitioner, of the child if not the same person as the legal father;

(f) Name and address of the person, cabinet or agency having custody of the child;

(g) Name and identity of the person, cabinet or authorized agency to whom custody is sought to be transferred;

(h) Statement that the person, cabinet or agency to whom custody is to be given has facilities available and is willing to receive the custody of the child;

(i) All pertinent information concerning termination or disclaimers of parenthood or voluntary consent to termination;

(j) Information as to the legal status of the child and the court so adjudicating; and

(k) A concise statement of the factual basis for the termination of parental rights.

(5) No petition may be filed under this section prior to five (5) days after the birth of the child.

(6) No petition may be filed to terminate the parental rights of a woman solely because of her use of a controlled substance during pregnancy if she, by the twentieth week of her pregnancy, enrolls in and maintains compliance with both a substance abuse treatment or recovery program and a regimen of prenatal care as recommended by her healthcare practitioner throughout the remaining term of her pregnancy.

➔Section 17. By December 31, 2015, the Department of Criminal Justice Training shall offer voluntary regionalized in-service training on the topic of heroin for law enforcement officers employed by agencies that utilize Department of Criminal

Justice Training basic training for their recruits, including instructional material on the detection and interdiction of heroin trafficking, the dynamics of heroin abuse, and available treatment options for addicts. There shall be at least one course offered in each area development district by July 15, 2015, with the courses being designed to qualify as in-service training under KRS 15.404.

➔Section 18. Whereas the illegal substances addressed in this Act pose a clear and present danger to the health and safety of Kentucky's citizens and no just cause exists for delay, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.