



## **Kentucky Association of Sexual Assault Programs** **2019 Kentucky General Assembly Summary**

### **Select KYGA 2019 session bills which passed and will become law**

→ Each will be effective June 27 unless they have an emergency clause, then they are effective upon the governor's signature or after veto period if not vetoed; or if they have a specific date written in the bill then they are effective on that date.

→ Information below is a partial summary of each bill. To read the full bill and all aspects of changes, please read the final bill from the link provided.

### **CRIMINAL LAW**

**SB67, new criminal offense for sex abuse against animals, KRS 525, Sen. Raque Adams**  
<https://apps.legislature.ky.gov/recorddocuments/bill/19RS/sb67/bill.pdf>

"Sexual contact" means any act committed between a person and an animal for the purpose of sexual arousal, sexual gratification, abuse, or financial gain...

Class D felony → (a) Engages in sexual contact with an animal; (b) Advertises, solicits, offers, or accepts the offer of an animal, or possesses, purchases, or otherwise obtains an animal, with the intent that the animal be subject to sexual contact; or (c) Causes, aids, or abets another person to engage in sexual contact with an animal

→ If convicted, also must give up custody of any animals, not harbor, own, possess, or exercise control over any animal, reside in any household where animals are present, or work or volunteer in a place where the person has unsupervised access to animals for a minimum of 5 years after completion of the imposed sentence; (c) Attend an appropriate treatment program or obtain psychiatric or psychological counseling, at the person's expense; and (d) Reimburse the agency caring for the animal for reasonable costs incurred for the care and treatment of the animal from the date of impoundment until the disposition of the criminal proceeding.

## **CRIMINAL LAW CONTINUED**

**SB70, new criminal offense for non-fatal strangulation**, KRS 508, Sen. Kerr  
<https://apps.legislature.ky.gov/recorddocuments/bill/19RS/sb70/bill.pdf>

**Strangulation 1<sup>st</sup> degree**, Class C felony: without consent, **intentionally** impedes the normal breathing or circulation of the blood of another person by: (a) Applying pressure on the throat or neck of the other person; or (b) Blocking the nose or mouth of the other person.

**Strangulation 2<sup>nd</sup> degree**, class D felony: without consent, **wantonly** impedes the normal breathing or circulation of the blood of another person by: (a) Applying pressure on the throat or neck of the other person; or (b) Blocking the nose or mouth of the other person.

Added “strangulation” to KRS 403 definition of “domestic violence and abuse” and to KRS 456” definition of “dating violence and abuse”

**SB131, modifies retention requirements of evidence in criminal cases which is subject to DNA testing**, KRS 524.140, Sen. Carroll

<https://apps.legislature.ky.gov/recorddocuments/bill/19RS/sb131/bill.pdf>

“Biological evidence” means: 1. The contents of a sexual assault evidence collection kit; or 2. Any item, or representative sample taken from an item, that contains blood, saliva, sperm, hair, tissue, bones, teeth, or other bodily fluids that was collected as part of a criminal investigation and that reasonably may be used to incriminate or exculpate any person from an offense or delinquent act;”

“No item of biological evidence gathered by law enforcement, prosecutorial, or defense authorities that may be subject to deoxyribonucleic acid (DNA) evidence testing and analysis in order to assist federal, state, and local criminal justice and law enforcement agencies within and outside the Commonwealth in the identification, detection, or exclusion of individuals who are subjects of investigation or prosecution, or to confirm the guilt or innocence of a criminal defendant, shall be disposed of prior to a criminal trial unless...”

**SB57, expungement expansion**, KRS 431.073 and 431.076, Sen. Higdon  
<https://apps.legislature.ky.gov/recorddocuments/bill/19RS/sb57/bill.pdf>

- list of class D felonies allowed to be vacated and expunged expanded, after 5 year waiting period; \$250 expungement fee
- “victim...shall have opportunity to be heard at any hearing...”

## **SEXUAL ASSAULT TRAINING REQUIREMENTS**

**SB92, sexual violence training requirement for EMTs and 1<sup>st</sup> responders**, KRS 311A.120, Sen. Harper Angel

<https://apps.legislature.ky.gov/recorddocuments/bill/19RS/sb92/bill.pdf>

“completion of a training course of at least 1 hour covering awareness of sexual violence, including reporting options, care options, pre-hospital treatment considerations, knowledge of regional rape crisis centers, and how to access the SANE-ready list, at least 1 time every 2-year renewal cycle.”

**SB121, modifies sexual assault investigation training requirement for law enforcement**,

KRS 15.334, Sen. Carroll

<https://apps.legislature.ky.gov/recorddocuments/bill/19RS/sb121/bill.pdf>

requires any officer responsible for investigating sex offenses to attend course;

agencies shall maintain officers on staff who have completed the 40 hour sexual assault investigation training course; 11-20 officers must have 1; 21-50 officers must have 2 trained; 51 or more, must have 4 trained; “An agency shall not make an officer directly responsible for the investigation or processing of sexual assault offenses unless that officer has completed the 40 hour sexual assault investigation training course”

## **SEXUAL ASSAULT FORENSIC EVIDENCE KIT TRACKING PORTAL**

**SB97, KSP lab required to implement sexual assault forensic evidence kit tracking portal, accessible for survivors**, KRS 16.132, Sen. Harper Angel

<https://apps.legislature.ky.gov/recorddocuments/bill/19RS/sb97/bill.pdf>

“by July 1, 2020, create and implement a tracking process for sexual assault forensic evidence kits. The department shall by December 1, 2020, promulgate administrative regulations governing the tracking process. The tracking process shall include, and the administrative regulations promulgated pursuant to this subsection shall require, a public portal allowing victims to access the system, and shall provide for the information to be submitted to the Department of Kentucky State Police.”

## FIREARMS

### **SB150, carrying concealed weapons, KRS 237, Sen. Smith**

<https://apps.legislature.ky.gov/recorddocuments/bill/19RS/sb150/bill.pdf>

“(1) Persons age twenty-one (21) or older, and otherwise able to lawfully possess a firearm, may carry concealed firearms or other concealed deadly weapons without a license in the same locations as persons with valid licenses issued under KRS 237.110. (2) Nothing in this section shall be construed to allow the carrying or possession of any deadly weapon where it is prohibited by federal law.”

Note: this does not change laws that prohibit certain people from possessing a gun: ex when DVO in place

## EMPLOYMENT

### **SB18, Kentucky Pregnant Workers Act, KRS 344, Sen. Kerr**

<https://apps.legislature.ky.gov/recorddocuments/bill/19RS/sb18/bill.pdf>

- for purposes of determining accommodations for an employee's own limitations related to her pregnancy, childbirth or related medical conditions, employer has 15 or more employees and operates at least 20 calendar weeks;
- “For an employee's own limitations related to her pregnancy, childbirth, or related medical conditions, may include more frequent or longer breaks, time off to recover from childbirth, acquisition or modification of equipment, appropriate seating, temporary transfer to a less strenuous or less hazardous position, job restructuring, light duty, modified work schedule, and private space that is not a bathroom for expressing breast milk”

### **SB7, employment agreements, KRS 336.700, 417.050, Sen. Stivers**

<https://apps.legislature.ky.gov/recorddocuments/bill/19RS/sb7/bill.pdf>

“Any employer may require an employee or person seeking employment to execute an agreement for arbitration, mediation, or other form of alternative dispute resolution as a condition or precondition of employment; to waive existing claim if want to rehire”; to reasonably reduce the period of limitations for filing a claim against the employer; to agree to a background check; applies retroactively and prospectively; “shall not apply to collective bargaining agreements entered into between employers and the respective representatives of member employees”

## NONPROFIT SPECIFIC

**HB354, nonprofit sales tax protections, KRS 139, Rep. Rudy - effective 3/26/19- emergency clause**  
<https://apps.legislature.ky.gov/recorddocuments/bill/19RS/hb354/bill.pdf>

The sale of admissions, except: ...

- “4. Admissions charged by nonprofit educational, charitable, or religious institutions exempt under Section 28 of this Act; and
- 5. Admissions charged by nonprofit civic, governmental, or other nonprofit organizations exempt under Section 29 of this Act”

Portion of Section 28: “Tax does not apply to...

- 5. Sales of admissions by nonprofit educational, charitable, or institutions described in subsection (1) of this section; or
- 6. a. Fundraising event sales made by nonprofit educational, charitable, or religious institutions and limited liability companies described in subsection (1) of this section.
  - b. For the purposes of this subparagraph, "fundraising event sales" does not include sales related to the operation of a retail business, including but not limited to thrift stores, bookstores, surplus property auctions, recycle and reuse stores, or any ongoing operations in competition with for-profit retailers.”

Section 29

“(1) (a) For nonprofit civic, governmental, or other nonprofit organizations, except as described in Section 28 of this Act and KRS 139.497, the taxes imposed by this chapter do not apply to:

- 1. The sale of admissions; or
- 2. a. Fundraising event sales.
  - b. For the purposes of this paragraph, "fundraising event sales" does not include sales related to the operation of a retail business, including but not limited to thrift stores, bookstores, surplus property auctions, recycle and reuse stores, or any ongoing operations in competition with for-profit retailers.

(b) The exemption provided in subparagraph 1. of paragraph (a) of this subsection shall not apply to the sale of admissions to a public facility that qualifies for a sales tax rebate under Section 31 of this Act.

(2) All other sales made by organizations referred to in subsection (1) of this section 3 are taxable”

## YOUTH SPECIFIC

**SB 1, School Safety and Resiliency Act**, Sen. Wise, emergency clause but sections state differing effective dates

<https://apps.legislature.ky.gov/recorddocuments/bill/19RS/sb1/bill.pdf>

- "School safety" means a program of prevention that protects students and staff from substance abuse, violence, bullying, theft, the sale or use of illegal substances, exposure to weapons and threats on school grounds, and injury from severe weather, fire, and natural disasters;
- "School security" means procedures followed and measures taken to ensure the security of school buildings, classrooms, and other school facilities and properties;
- requirements for Center for School Safety;
- DOJT training requirement for office of state school security marshal;
- creation of school safety coordinator;
- School resource officer requirements
  - requires one or more certified school resource officers to each school within a school district as funds and qualified personnel become available; school resource officer shall not be responsible for school discipline matters that are the responsibility of school administrators or school employees; SROs required to receive training certification – 3 levels;
- Suicide Prevention training
  - every public school shall provide suicide prevention awareness information in person, by live streaming, or via a video recording to all students in grades six through twelve; 1 hour, every other year required suicide prevention training for all school district employees with job duties requiring direct contact with students in grades six through twelve;
- training for school district employees on responding to active shooter situation;
- all public schools must adopt a trauma-informed approach to education in order to better recognize, understand, and address the learning needs of students impacted by trauma and to foster a learning environment where all students, including those who have been traumatized, can be safe, successful, and known well by at least one adult in the school setting;
- Beginning July 1, 2021 or as funds and qualified personnel become available, each school district and each public charter school shall employ at least 1 school counselor in each school with the goals of having 1 school counselor for every 250 students and the school counselor spending 60% or more of his or her time in direct services to students;
- KY Office of Homeland Security must create anonymous reporting tool;
- written notice to all students, parents, and guardians of students within 10 days of the first instructional day of each school year of the provisions of KRS 508.078 (terroristic threatening 2<sup>nd</sup> degree) and potential penalties under KRS 532.060 and 534.030 upon conviction

**YOUTH SPECIFIC CONTINUED**

<p><b>SB31, Sibling Visitation</b>, KRS 620.050 Rep. Alvarado <a href="https://apps.legislature.ky.gov/recorddocuments/bill/19RS/sb31/bill.pdf">https://apps.legislature.ky.gov/recorddocuments/bill/19RS/sb31/bill.pdf</a></p> <p>“cabinet shall, in the case of siblings removed from their home who are not jointly placed, provide for frequent visitation or other ongoing interaction between the siblings, unless the cabinet determines that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings”</p>	<p><b>HB158, child welfare</b>, KRS 199, 625, 620, Rep. Meade <a href="https://apps.legislature.ky.gov/recorddocuments/bill/19RS/hb158/bill.pdf">https://apps.legislature.ky.gov/recorddocuments/bill/19RS/hb158/bill.pdf</a></p> <p>consent by bio parent to adoption becomes effective after 72 hours (was 20 days); putative fathers given 21 days after birth of child to register (was 30 days); child care facility staff must submit to background check and fingerprinting; may register them in rap back system; creates rights for child in foster care including “Freedom from physical, sexual, or emotional injury or exploitation”; other modifications</p>
<p><b>HB2, relative and fictive kin caregivers</b>, KRS 620, 605.120, 610.010, Rep. Fugate <a href="https://apps.legislature.ky.gov/recorddocuments/bill/19RS/hb2/bill.pdf">https://apps.legislature.ky.gov/recorddocuments/bill/19RS/hb2/bill.pdf</a></p> <p>Cabinet shall develop options for relative and fictive kin caregivers; collect data; “Fictive kin means an individual who is not related by birth, adoption, or marriage to a child, but who has an emotionally significant relationship with the child”</p>	<p><b>HB 446, Child Welfare</b>, KRS 620 and 625, Rep. Meade <a href="https://apps.legislature.ky.gov/recorddocuments/bill/19RS/hb446/bill.pdf">https://apps.legislature.ky.gov/recorddocuments/bill/19RS/hb446/bill.pdf</a></p> <p>creates a “new” grounds for termination of parental rights of a child having been removed from the parents more than 2 times in the preceding 24 months; modified duties of State Citizen Foster Care Review Board; other modifications</p>
<p><b>HB11, student health</b>, KRS 438, Rep. Moser <a href="https://apps.legislature.ky.gov/recorddocuments/bill/19RS/hb11/bill.pdf">https://apps.legislature.ky.gov/recorddocuments/bill/19RS/hb11/bill.pdf</a></p> <p>use of any tobacco product, alternative nicotine product, or vapor product prohibited on school property and school related events</p>	