

LEGISLATIVE UPDATE

2020

MARY SAVAGE

KENTUCKY COALITION AGAINST DOMESTIC VIOLENCE

BILLS THAT PASSED

SB 2 VOTER ID


- ▶ DEFINES “PROOF OF IDENTIFICATION” (NEEDED TO CAST A BALLOT) AS AN ID WITH NAME AND PHOTO ISSUED BY: THE U.S.; KENTUCKY; U.S. MILITARY; KY NATIONAL GUARD; MERCHANT MARINES; A PUBLIC OR PRIVATE COLLEGE, UNIVERSITY, POSTGRADUATE TECHNICAL OR PROFESSIONAL SCHOOL LOCATED IN THE U.S.; OR A CITY, COUNTY, UNIFIED OR CONSOLIDATED GOVERNMENT IN KENTUCKY
- ▶ IN ABSENCE OF PHOTO ID, ELIGIBLE VOTER CAN EXECUTE A VOTER’S AFFIRMATION: CITIZEN OF US, DATE OF BIRTH, NAME, RESIDENTIAL ADDRESS, QUALIFIED TO VOTE AND HAS NOT AND WILL NOT VOTE IN ANOTHER PRECINCT, AND IS UNABLE TO GET A PHOTO ID DUE TO: LACK OF TRANSPORTATION, INABILITY TO GET BIRTH CERTIFICATE, WORK SCHEDULE, LOST/STOLEN ID, DISABILITY/ILLNESS, FAMILY RESPONSIBILITIES, ID APPLIED FOR BUT NOT YET RECEIVED, OR RELIGIOUS OBJECTION TO BEING PHOTOGRAPHED
- ▶ THEN MUST ALSO PROVIDE: SOCIAL SECURITY CARD, ID WITHOUT PHOTO, ANY ID WITH PHOTO NOT LISTED ABOVE, EBT/SNAP CARD OR SIMILAR, OR CREDIT CARD WITH NAME

SB 8 REVISING SCHOOL SAFETY BILL OF 2019

- ▶ KRS 158.4414 - REQUIRES SROs TO BE ARMED WITH A FIREARM, NOTWITHSTANDING ANY PROVISION OF A LOCAL SCHOOL BOARD OR COUNCIL POLICY, PROVISION, OR MOA

SB 15/SB 80 MARSY'S LAW

- ▶ SB 15 - PUTS MARSY'S LAW BACK ON THE BALLOT IN NOVEMBER
- ▶ IF PASSED WILL AMEND THE KENTUCKY CONSTITUTION
- ▶ REASONABLE RIGHT UPON REQUEST TO TIMELY NOTICE OF ALL COURT PROCEEDINGS
- ▶ TO BE HEARD IN ANY PROCEEDING INVOLVING RELEASE, PLEA, SENTENCING, PARDON, COMMUTATION, REPRIEVE, OR OTHER MATTER INVOLVING RIGHT OF VICTIM OTHER THAN GRAND JURY
- ▶ TO BE PRESENT AT TRIAL AND ALL OTHER PROCEEDINGS, EXCEPT GRAND JURY, ON SAME BASIS AS ACCUSED
- ▶ RIGHT TO PROCEEDINGS FREE FROM UNREASONABLE DELAY
- ▶ RIGHT TO CONSULT WITH THE PROSECUTOR OR THEIR DESIGNEE

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- ▶ REASONABLE PROTECTION FROM THE ACCUSED AND THOSE ACTING ON BEHALF OF THE ACCUSED
 - ▶ TIMELY NOTICE UPON REQUEST OF RELEASE OR ESCAPE
 - ▶ RIGHT TO HAVE SAFETY OF VICTIM AND FAMILY CONSIDERED IN SETTING BAIL, DETERMINING RELEASE, AND CONDITIONS OF RELEASE PRE AND POST CONVICTION
 - ▶ FULL RESTITUTION
 - ▶ FAIRNESS AND DUE CONSIDERATION OF SAFETY, DIGNITY, PRIVACY
 - ▶ RIGHT TO BE INFORMED OF RIGHTS
 - ▶ STANDING TO ASSERT THESE RIGHTS

- ▶ THE VICTIM, THE VICTIM'S ATTORNEY, OR OTHER LAWFUL REPRESENTATIVE MAY SEEK ENFORCEMENT OF THESE RIGHTS IN ANY TRIAL OR APPELLATE COURT WITH JURISDICTION OVER THE CASE
- ▶ DOES NOT CREATE ANY GROUNDS FOR VACATING A CONVICTION
- ▶ CANNOT BE USED BY DEFENDANT TO GAIN SOME RELIEF
- ▶ SB 80 GOES INTO EFFECT IF THE AMENDMENT PASSES ON ELECTION DAY
 - ▶ REDEFINES "VICTIM" - AN INDIVIDUAL DIRECTLY AND PROXIMATELY HARMED AS A RESULT OF ANY FELONY OR OF A MISDEMEANOR INVOLVING THREATENED OR ACTUAL PHYSICAL INJURY, HARASSMENT, OR RESTRAINT, A CHILD OR INCOMPETENT PERSON, A SEXUAL OFFENSE, OR TRESPASS
 - ▶ CREATES "GOOD FAITH" CIVIL AND CRIMINAL IMMUNITY FOR PROSECUTORS

SB 42 HOTLINE NUMBERS TO BE INCLUDED ON STUDENT IDs

- ▶ ANY PUBLIC MIDDLE OR HIGH SCHOOL, INCLUDING PUBLIC CHARTER SCHOOLS
- ▶ ALL POST SECONDARY SCHOOLS, PUBLIC OR PRIVATE
- ▶ NATIONAL HOTLINES
 - ▶ SUICIDE
 - ▶ DOMESTIC VIOLENCE
 - ▶ SEXUAL ASSAULT

SB 66 RIGHT TO CONTROL DISPOSITION OF REMAINS

- ▶ KRS 367.93117 - NO PERSON SHALL HAVE THE RIGHT TO CONTROL THE DISPOSITION OF THE REMAINS OF A DECEDENT IF THE PERSON HAS BEEN ARRESTED FOR OR CHARGED WITH COMMITTING AN OFFENSE INTENTIONALLY, KNOWINGLY, OR WANTONLY, WHICH RESULTED IN THE DEATH OF THE DECEDENT

SB 72 FEMALE GENITAL MUTILATION

- ▶ CREATES A NEW CRIME - KRS 508.125 FEMALE GENTIAL MUTILATION
- ▶ CLASS B FELONY
- ▶ KNOWINGLY PERFORMS FGM ON ANOTHER PERSON UNDER 18 YEARS OF AGE;OR
- ▶ A PARENT, GUARDIAN, OR OTHER PERSON WITH IMMEDIATE CUSTODY OR CONTROL OF A PERSON UNDER 18 YEARS OF AGE KNOWINGLY CONSENTS TO OR PERMITS FGM OF THAT PERSON;OR
- ▶ KNOWINGLY REMOVES OR CAUSES OR PERMITS THE REMOVAL OF A PERSON UNDER 18 YEARS OF AGE FROM KENTUCKY FOR THE PURPOSE OF PERFORMANCE OF FGM

FGM DEFINITION

- ▶ A PROCEDURE THAT INVOLVES THE PARTIAL OR TOTAL REMOVAL OF THE EXTERNAL FEMALE GENITALIA OR ANY PROCEDURE HARMFUL TO THE FEMALE GENITALIA, INCLUDING BUT NOT LIMITED TO:
 - ▶ A CLITORIDECTOMY
 - ▶ THE PARTIAL OR TOTAL REMOVAL OF THE CLITORIS OR THE PREPUCE
 - ▶ THE EXCISION OR THE PARTIAL OR TOTAL REMOVAL OF THE CLITORIS AND THE LABIA MINORA WITH OR WITHOUT EXCISION OF THE LABIA MAJORA
 - ▶ THE INFIBULATION OR THE NARROWING OF THE VAGINAL ORIFICE WITH THE CREATION OF A COVERING SEAL BY CUTTING AND APPPOSITIONING OF THE LABIA MINORA OR THE LABIA MAJORA WITH OR WITHOUT THE EXCISION OF THE CLITORIS
 - ▶ PRICKING, PIERCING, INCISING, SCRAPING, OR CAUTERIZING THE GENITAL AREA
 - ▶ ANY OTHER ACTION TO PURPOSEFULLY ALTER THE STRUCTURE OR FUNCTION OF THE FEMALE GENITALIA FOR A NONMEDICAL REASON

- ▶ NOT A DEFENSE THAT
 - ▶ IT IS REQUIRED AS A MATTER OF RELIGION, CUSTOM, RITUAL, OR STANDARD PRACTICE
 - ▶ IT IS CONSENTED TO BY THE MINOR UPON WHOM IT IS PERFORMED OR THEIR PARENT OR GUARDIAN

- ▶ NECESSARY SURGICAL PROCEDURE FOR HEALTH OF THE MINOR, OR PERFORMED ON A MINOR IN LABOR OR WHO HAS JUST GIVEN BIRTH, FOR MEDICAL PURPOSES CONNECTED WITH THAT LABOR OR BIRTH, AND PERFORMED BY A LICENSED HEALTH CARE PROVIDER, IS NOT A VIOLATION OF THIS STATUTE

EDUCATIONAL MATERIAL ON FGM TO BE PROVIDED BY CHFS

- ▶ KRS 211.125
- ▶ DEPARTMENT OF PUBLIC HEALTH TO DEVELOP, PRODUCE, AND DISSEMINATE EDUCATIONAL MATERIAL REGARDING FGM, ITS HEALTH RISKS AND EMOTIONAL TRAUMA, AND CRIMINAL PENALTIES FOR FGM, AND PROVIDE THESE MATERIAL TO HEALTH CARE PROVIDERS, TEACHERS, LAW ENFORCEMENT
- ▶ <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>
- ▶ <https://www.endfgm.eu/female-genital-mutilation/what-is-fgm/>
- ▶ <https://www.unfpa.org/resources/female-genital-mutilation-fgm-frequently-asked-questions>

SB 122 EXPANDING “LOOK BACK” PERIOD FOR TIM’S LAW

- ▶ KRS 202A.0815 - ALLOWS INDIVIDUAL TO BE COURT-ORDERED TO ASSISTED OUTPATIENT MENTAL HEALTH TREATMENT
- ▶ ONE OF THE FOUR REQUIRED CRITERIA IS AT LEAST TWO PAST INVOLUNTARY HOSPITALIZATIONS
- ▶ “LOOK BACK” PERIOD FOR HOSPITALIZATION WAS 12 MONTHS; NOW IT IS 24 MONTHS

HB 153 MENTAL HEALTH FIRST AID TRAINING PROGRAM

- ▶ TO BE ADMINISTERED BY CHFS
- ▶ TO TRAIN PROFESSIONALS AND OTHERS TO IDENTIFY AND ASSIST PEOPLE WHO MAY HAVE OR BE DEVELOPING A MENTAL HEALTH OR SUBSTANCE USE DISORDER OR WHO MAY BE EXPERIENCING A CRISIS
 - ▶ RECOGNIZE SYMPTOMS
 - ▶ PROVIDE INITIAL HELP
 - ▶ MAKE APPROPRIATE REFERRAL
 - ▶ PROMOTE HEALING AND RECOVERY
- ▶ KMHFAT FUND - TRAINING GRANTS
 - ▶ AVAILABLE TO (BUT NOT LIMITED TO): LAW ENFORCEMENT, CORRECTIONS, EDUCATION, RETAIL ESTABLISHMENTS, MILITARY, OLDER ADULT AND YOUTH FOCUSED AGENCIES

HB 256 EXTENSION OF “CHILD CONCEIVED OF RAPE” CUSTODY LAW

- ▶ KRS 403.322
- ▶ ADDS “OR A COMPARABLE OFFENSE FROM ANOTHER JURISDICTION” TO SUBSECTION (2) TO EXTEND PROVISIONS OF STATUTE TO THOSE SITUATIONS WHERE THE RAPE OCCURRED OUTSIDE OF KENTUCKY
- ▶ ADDS LANGUAGE THAT ALLOWS ONLY AN ADULT MOTHER OR THE GUARDIAN OF A MINOR MOTHER TO WAIVE THE PROVISIONS OF THE STATUTE
- ▶ RETAINS LANGUAGE THAT A PERSON CONVICTED OF RAPE CANNOT HAVE CUSTODY OR VISITATION OF THE CHILD SO CONCEIVED
- ▶ DID NOT ACCOMPLISH THE ORIGINAL PURPOSE OF BRINGING THIS RESTRICTION ON CUSTODY RIGHTS INTO THE REALM OF PURELY CIVIL ACTIONS; THERE MUST BE A CONVICTION; PROOF OF RAPE BY CLEAR AND CONVINCING EVIDENCE WAS TAKEN OUT OF THE BILL

HB 327 EXPANSION OF CRIMINAL EXPUNGEMENT

- ▶ KRS 431.076
- ▶ “AUTOMATIC” EXPUNGEMENT OF ANY CRIMINAL CHARGE WHERE THERE WAS AN AQUITTAL OR DISMISSAL WITH PREJUDICE (OF ALL CRIMINAL CHARGES AND NOT IN EXCHANGE FOR A GUILTY PLEA ON ANOTHER CHARGE(S))
- ▶ FOR ALL SUCH DISPOSITION OF CHARGES OCCURRING AFTER JULY 15, 2020
- ▶ NO ACTION REQUIRED BY PERSON CHARGED
- ▶ FOR ALL SUCH DISPOSITION OF CHARGES PRIOR TO JULY 15, 2020, THE PERSON CHARGED CAN FILE FOR EXPUNGEMENT USING THE NORMAL APPLICATION

- ▶ WHERE CHARGES HAVE BEEN DISMISSED WITHOUT PREJUDICE THE PERSON CHARGED MAY FILE A PETITION FOR EXPUNGEMENT:
 - ▶ MISDEMEANORS: ONE YEAR FROM DATE OF ORDER OF DISMISSAL
 - ▶ FELONIES: THREE YEARS FROM DATE OF DISMISSAL
- ▶ WHERE FELONY CHARGES HAVE NOT RESULTED IN A GRAND JURY INDICTMENT OR FILING OF AN INFORMATION:
 - ▶ 6 MONTHS OF DATE OF DISTRICT COURT DECISION TO HOLD MATTER TO THE GRAND JURY

SB 150 COVID-19 RELATED PROVISIONS PURSUANT TO EXECUTIVE ORDER DURING DECLARED STATE OF EMERGENCY

- ▶ WAIVED STATE LICENSING FEES FOR CLOSED BUSINESSES;
- ▶ SUSPENDED THE 7 DAY WAITING PERIOD FOR UNEMPLOYMENT INSURANCE; CHANGED THE WAY ELIGIBILITY FOR UI IS CALCULATED BASED ON HOW MUCH AN EMPLOYEE EARNED; PROTECTS THE UI RESERVE RATIOS FOR EMPLOYERS WITH LESS THAN 100 EMPLOYEES; ALLOWS SELF-EMPLOYED AND SELF-INSURED INDIVIDUALS TO APPLY FOR UI; ALLOWS THOSE WHOSE HOURS HAVE BEEN REDUCED BY MORE THAN 10% BUT LESS THAN 60% TO APPLY FOR UI;
- ▶ ALLOWS FOR EXPANDED TELE-HEALTH; DELINEATES HEALTH SERVICES THAT ARE NECESSARY - SUCH AS PHYSICAL THERAPY, SPEECH THERAPY, ETC - INCLUDING SUD TREATMENT; HEALTH CARE PROVIDERS GIVEN IMMUNITY FOR PROVIDING COVID-19 RELATED SERVICES; ALLOWS MEDICAL LICENSURE BOARDS TO TEMPORARILY RELAX LICENSURE REQUIREMENTS SO HEALTH CARE PROVIDERS CAN WORK IN AREAS THEY MAY NOT NORMALLY WORK IN, TO ADDRESS THE NEED FOR TREATING PATIENTS WITH COVID-19.
- ▶ BUSINESSES WITH LIQUOR LICENSES CAN SELL ALCOHOL BY THE DRINK TO GO;
- ▶ COURT ORDERED COUNSELING OR CLASSES CAN BE PROVIDED VIRTUALLY;

**BILLS WHICH DID NOT
PASS BUT MAY COME
BACK IN 2021**

SB 1 COOPERATION WITH ICE

- ▶ MADE IT OUT OF THE SENATE WITH SOME SIGNIFICANT REVISIONS
- ▶ SPONSOR AGREED TO EXEMPTING DV PROGRAMS, RAPE CRISIS CENTERS, AND CHILD ADVOCACY CENTERS FROM ITS REQUIREMENTS, ALONG WITH DPA, PUBLIC HEALTH DEPARTMENTS, AND SCHOOLS (BUT NOT COLLEGES/UNIVERSITIES)
- ▶ OTHERWISE REQUIRED MOST “PUBLIC” (STATE AND LOCAL) AGENCIES AND EMPLOYEES TO ASSIST ICE TO THE BEST OF THEIR ABILITY WHEN REQUESTED
- ▶ BASICALLY ANOTHER “ANTI” SANCTUARY CITY/COUNTY/UNIVERSITY DECLARATIONS BILL

SB 11 CRIMINAL DAMAGE TO RENTAL PROPERTY

- ▶ PASSED BOTH HOUSES BUT WAS VETOED BY GOVERNOR AND NOT TAKEN BACK UP BY G.A.
- ▶ SPECIFICALLY ADDED INTENTIONALLY OR WANTONLY DEFACING, DESTROYING, OR DAMAGING RENTAL PROPERTY BY RESIDENTIAL TENANT TO ALREADY EXISTING CRIMINAL MISCHIEF STATUTES
- ▶ WOULD BE A FELONY IF DAMAGE EXCEEDS \$1,000.00
- ▶ COULD BE A CLASS B MISDEMEANOR EVEN FOR DAMAGE OF ANY KIND, NO MATTER HOW SMALL THE VALUE
- ▶ SPONSOR SPECIFICALLY STATED SEVERAL TIMES THE PURPOSE WAS TO “CREATE A RECORD” THAT LANDLORDS COULD SEE WHEN SOMEONE APPLIES TO RENT A RESIDENTIAL UNIT

SB 139 FLAGRANT NON-SUPPORT

- ▶ WOULD RAISE THRESHOLD FROM \$1,000.00 OR 6 MONTHS OF NONPAYMENT TO \$10,000.00 OR 12 MONTHS OF NONPAYMENT
- ▶ DIDN'T GET ANY TRACTION BUT WILL PROBABLY COME BACK UP IN SOME FORM

HB 1 PUBLIC ASSISTANCE REFORM


- ▶ MADE IT THROUGH HOUSE; NEVER TAKEN UP IN SENATE COMMITTEE
- ▶ IT WILL BE BACK
- ▶ DESPITE OVERWHELMING TESTIMONY DURING THE 2019 INTERIM SESSION DURING THE PUBLIC ASSISTANCE REFORM TASK FORCE MEETINGS THAT 'WELFARE FRAUD' IS A CONCEPT NOT GROUNDED IN FACT, AT LEAST IN KENTUCKY, THIS BILL CAME BACK (FROM THE 2019 REGULAR SESSION) UNDER THE GUISE OF 'HELPFUL REFORMS'
- ▶ THERE WAS STRONG, ORGANIZED OPPOSITION TO HB 1 THIS YEAR, AND ANY ENTITY THAT WORKS TO SUPPORT AND AID LOW INCOME KENTUCKIANS SHOULD BE ON THE LOOK OUT FOR OPPORTUNITIES TO JOIN IN THE EFFORT IN 2021

HB 131 COLLECTION OF DOMESTIC VIOLENCE HOMICIDE DATA BY KSP

- ▶ WENT NOWHERE
- ▶ WE REALLY NEED THIS IN KENTUCKY!
- ▶ WE HOPE TO SEE IT AGAIN IN 2021

HB 216 ADDING ABUSE OF PETS TO DEFINITION OF DOMESTIC VIOLENCE

- ▶ ADDS PETS TO PROTECTIVE ORDER STATUTES
- ▶ KRS 403.720(B) - DOMESTIC VIOLENCE AND ABUSE MEANS : ANY CONDUCT PROHIBITED BY KRS 525.125, 525.130, 525.135, OR 525.137 CONDUCTED TOWARDS A DOMESTIC ANIMAL OWNED BY THE PERSON FOR WHOM PROTECTION IS SOUGHT WHEN USED AS A METHOD OF COERCION, CONTROL, PUNISHMENT, INTIMIDATION, OR REVENGE DIRECTED AGAINST A FAMILY MEMBER OR MEMBER OF AN UNMARRIED COUPLE
- ▶ SAME TO BE FOUND IN KRS 456 RE: DATING VIOLENCE AND ABUSE
- ▶ COURT CAN AWARD POSSESSION OF JOINTLY-OWNED DOMESTIC ANIMAL TO THE PERSON FOR WHOM PROTECTION IS SOUGHT
- ▶ DOMESTIC ANIMAL IS A PERSONAL PET THAT IS AN ANIMAL THAT HAS BEEN CONVERTED TO A DOMESTIC HABIT
- ▶ HOPEFULLY IT WILL BE BROUGHT UP AGAIN IN 2021



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