

1 AN ACT relating to risk protection orders.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Firearm" has the same meaning as in KRS 237.060; and*

7 *(b) "Qualified mental health professional" has the same meaning as in KRS*
8 *202A.011.*

9 *(2) Proceedings under this section shall be initiated by the filing of a verified petition*
10 *in District Court.*

11 *(3) The petition and all subsequent court documents shall be entitled: "In the*
12 *interest of (name of respondent)."*

13 *(4) The petition shall be filed by a qualified mental health professional, peace officer,*
14 *county attorney, Commonwealth's attorney, spouse, relative, friend, or guardian*
15 *of the individual concerning whom the petition is filed, or any other interested*
16 *person.*

17 *(5) The petition shall set forth:*

18 *(a) Petitioner's relationship to the respondent;*

19 *(b) Respondent's name, residence, and current location, if known; and*

20 *(c) Petitioner's belief, including the factual basis for the belief, that the*
21 *respondent is or has been diagnosed with or treated for a mental condition*
22 *that causes or is likely to cause impairment in judgment, perception, or*
23 *impulse control to an extent that presents an unreasonable risk to public*
24 *health, safety, or welfare if the person were in possession or control of a*
25 *firearm.*

26 *(6) Upon receipt of the petition, the court shall:*

27 *(a) Set a date for a hearing within fourteen (14) days from the filing of the*

- 1 petition; and
- 2 (b) Notify the respondent concerning the allegations and contents of the
- 3 petition and the date and purpose of the hearing.
- 4 (7) If after the hearing the court finds by clear and convincing evidence that the risk
- 5 to public health, safety, or welfare as described in subsection (5)(c) of this section
- 6 exists, the court shall enter an order prohibiting the respondent from purchasing,
- 7 possessing, receiving, or having in his or her custody or control a firearm.
- 8 (8) Within twenty-four (24) hours of issuing the order, the court shall forward, by the
- 9 most expedient means reasonably available, a copy of the order to the appropriate
- 10 agency designated for entry of orders of protection into the Law Information
- 11 Network of Kentucky and to the Department of Kentucky State Police.
- 12 (9) The Department of Kentucky State Police shall immediately make information
- 13 about the order available to the National Instant Criminal Background Check
- 14 System for the purpose of firearm purchaser background checks.
- 15 (10) (a) Any person found in violation of an order entered under this section shall
- 16 be guilty of a Class A misdemeanor.
- 17 (b) Any firearm possessed in violation of this section shall be subject to
- 18 forfeiture and shall be disposed of as provided in KRS 500.090.

19 ➔Section 2. KRS 237.104 is amended to read as follows:

- 20 (1) No person, unit of government, or governmental organization shall, during a period
- 21 of disaster or emergency as specified in KRS Chapter 39A or at any other time,
- 22 have the right to revoke, suspend, limit the use of, or otherwise impair the validity
- 23 of the right of any person to purchase, transfer, loan, own, possess, carry, or use a
- 24 firearm, firearm part, ammunition, ammunition component, or any deadly weapon
- 25 or dangerous instrument.
- 26 (2) No person, unit of government, or governmental organization shall, during a period
- 27 of disaster or emergency as specified in KRS Chapter 39A or at any other time,

1 take, seize, confiscate, or impound a firearm, firearm part, ammunition, ammunition
2 component, or any deadly weapon or dangerous instrument from any person.

3 (3) The provisions of this section shall not apply to the taking of an item specified in
4 subsection (1) or (2) of this section from a person who is:

5 (a) Forbidden to possess a firearm pursuant to KRS 527.040 or Section 1 of this
6 Act;

7 (b) Forbidden to possess a firearm pursuant to federal law;

8 (c) Violating KRS 527.020 or Section 1 of this Act;

9 (d) In possession of a stolen firearm;

10 (e) Using a firearm in the commission of a separate criminal offense; or

11 (f) Using a firearm or other weapon in the commission of an offense under KRS
12 Chapter 150.

13 ➔Section 3. This Act may be cited as Diego's Law.