

**The Rights of the Homeless in
Kentucky**

A Primer on Homeless Rights

2010

A Project of Region 2 Continuum of Care

Introduction

Homeless service providers face several barriers to service delivery and access for their clients. Barriers include access to benefits, transportation, employment, language accessibility, treatment services and other areas of need that contribute to a quality of life. The Region 2 Continuum of Care realized the need for a primer on homeless rights on the day a 17 year old female homeless student attempted to enroll as a senior at a local high school. The receptionist called the principal to assess the situation. The principal asked the student when the baby was due. The homeless student was then told it would be a better option for her to drop out of school and get her GED. This particular 17 year old had fled a violent home, lived in a car, found a shelter and wanted to finish her education. She realized that a diploma would help her secure a better paying job and she was determined to finish high school and go to college. Her dreams were crushed.

This incident is a clear violation of Title IX that protects the educational rights of pregnant students. Had the student been aware of this federal law, she may have been able to advocate on her own behalf. Had the shelter case manager recognized this incident as a violation of Title IX the student may have experienced a different outcome. This is just one example of violations of the rights of the homeless that occur across the Commonwealth.

The purpose of this primer is to help educate homeless service providers in their work of advocacy, case management, and counseling. It is meant to promote safety, security and justice for a population that is sometimes disenfranchised. The information contained in this primer is broken down into separate categories to make it easier for providers to access. It is sized to fit in a pocket or purse so that providers may take it with them to court, appointments, schools and other places of referral. The information is not all inclusive and is just a beginning in our work of advocacy in this area.

Advocating for the homeless often involves a review of civil and legal rights. As you read through this primer you will recognize areas that are difficult for this population to access. The homeless may lack the resources and confidence necessary to vocalize their rights. It is our hope that this Primer on homeless rights serves as a pathway of hope across Kentucky as we work together on our Ten Year Plan to End Homelessness. Let us continue to ensure safety, security, services and justice for those who seek our services.

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Region 2 Continuum of Care

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Child Care & Before and After School Care

Child Care and Development Block Grant (CCDBG)

42 USC§9858

U.S. Department of Health and Human Services program that subsidizes child care for low-income families, families receiving public assistance, and families transitioning from public assistance. Services are provided through contracts with providers or certificates to parents. Parents can select any legally operating child care provider that meets basic health and safety requirements.

Childcare Information Exchange (Childcare for Homeless Children)

www.ChildcareExchange.com

National Network for Child Care

www.nccc.org

Disability

Americans with Disabilities Act (ADA)

42 USC §§ 12101 et seq.

ADA protects the rights of people with disabilities. Title I of the law covers rights to employment. Title II covers rights to state and local government programs and services, including schools and public transportation. Title III covers public accommodations (such as restaurants, stores, hotels, theaters, public schools, convention centers, doctors' offices, homeless shelters, transportation depots, zoos, day care centers, and recreation facilities), and private transportation.

Rehabilitation Act of 1973, Section 504

29 USC § 794

Section 504 of the Rehabilitation Act states that “no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under” any program or activity that receives federal financial assistance.

Benefits

Homeless individuals may apply for either SSI (Supplemental Security Income) or SSDI (Social Security Disability Insurance).

The Social Security Administration defines disability as the “inability to engage in any substantial gainful activity (SGA) because of a medically determinable physical or mental impairment(s) that has lasted or is expected to last of a continuous period of not less than 12 months or results in death.”

Education

The Individuals with Disabilities Education Act (IDEA)

Main federal law guiding special education. Under the law, special education is specially designed instruction to meet the needs of individual students. IDEA also allows for related services, which include transportation, speech or language therapy, physical therapy, psychological services, social work services, counseling, medical services, recreation and other needed services. Schools must provide these services if students need them to benefit from a special education program. IDEA protects all students who need special education and related services, including those who are homeless, between the ages of 3 and 21.

If a homeless parent thinks a homeless child or youth has a disability, he or she should ask the school to do evaluations or tests. The parent should put the request in writing, date the request, and give a copy to the school principal or guidance counselor.

IDEA requires schools to provide all necessary tests usually within 60 days of the parent's request.

If homelessness causes a student to move a lot and change schools, and the child has a current IEP (Individualized Education Plan), the new school is required to immediately provide the child with a full, appropriate education, including services comparable to those described in the previous IEP, in consultation with the parents.

Section 504 and Title II of the Americans with Disabilities Act

Guards the rights of students who face discrimination based on their disability, including homeless students.

Employment

KRS 344.040 Discrimination by employers:

It is an unlawful practice for an employer:

1. To fail or refuse to hire, or to discharge an individual, or otherwise to discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, because of the individual's race, color, religion, national origin, sex, age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking.
2. To limit, segregate, or classify employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect status as an employee, because of the individual's race, color, religion, national origin, sex, or age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking.

Voting

1984 Voting Accessibility Act:

This act says that all polling places are required to be physically accessible. If a polling place is not accessible, then it should be moved to another location, or be made temporarily accessible. It is only when this is not possible that your local election officials can require you to vote by an alternative method, such as curbside voting.

Special needs at the polls

People who require voting assistance due to physical disability and/or blindness may request voting assistance at the polls on Election Day. Physical disability and blindness are the only two reasons that a voter may apply to a County Board of Elections for permanent voting assistance. A person may receive assistance from someone of their choice or the two precinct judges at the polls. A person may not be assisted by their employer, his or her agent, a union officer or agent of that voter's union.

Absentee Ballot

An absentee ballot may be requested at the County Clerk's office if you meet any of the following qualifications:

- Due to advanced age, disability, illness or medical emergency; or
- You are incarcerated in jail and have been charged but not convicted of a crime.

Americans with Disabilities Act
www.ada.gov

Kentucky Legal Aid
www.klaid.org

Legal Aid Services in Kentucky
www.kylawhelp.org

Social Security Administration
www.socialsecurity.gov

Domestic Violence & Sexual Assault

Violence Against Women Act 2005 Reauthorization (Effective January 2006)

In 2005, Congress reauthorized the Violence Against Women Act (VAWA) and included new housing provisions. The VAWA housing provisions are the first federal housing protections for victims of domestic violence, dating violence, and stalking.

New Housing Provisions:

- Protection against discriminatory denials and evictions in Public and Section 8 housing for victims of domestic violence, dating violence, and stalking;
- Confidentiality provisions in the Homeless Management Information System;
- Planning requirements for VAWA implementation for Public Housing Authorities;
- Documentation and confidentiality;
- Voucher portability
- PHA plan; and
- Court orders and leases

Denial of housing prohibited: These statutes provide that an individual's status as a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of admission or denial of housing assistance.

Eviction for criminal activity prohibited: The statute establishes an exception to the federal "one-strike" criminal activity eviction rule for tenants who are victims. VAWA explicitly provides that an incident of actual or threatened domestic violence, dating violence, or stalking does not qualify as a serious or repeated violation of the lease or good cause for terminating the assistance, tenancy, or occupancy rights of a victim.

New Social Security Numbers for Victims of Domestic Violence

SSA Publication No. 05-10093, October 2006

Although Social Security doesn't routinely assign new numbers, it will consider doing so when evidence shows that a person has been harassed or abused or her/his life is endangered.

In order to request a change of Social Security number, the following must be completed:

- Apply in person;
- Complete a statement explaining why you need a new number; and
- Complete application for a new number.

You will need to present:

- Evidence documenting the harassment or abuse;
- Your current Social Security number;
- Original documents establishing your:
 - ✓ U.S. citizenship or immigration status;
 - ✓ Age;
 - ✓ Identity;
 - ✓ Evidence of your legal name change if you have changed your name; and
 - ✓ Original documents showing you have custody of any children for whom you are requesting new numbers and documentation proving their U.S. citizenship, ages, and identities.

National Law Center on Homelessness and Poverty

www.nlchp.org

Office of Violence Against Women

www.usdog.gov/ovw

Social Security Administration

www.ssa.gov/pubs/10093.html

Education

The McKinney-Vento Homeless Assistance Act, reauthorized in January 2002 as Title X, Part C, of the No Child Left Behind Act, is the primary piece of federal legislation dealing with the education of children and youth in homeless situations.

The McKinney-Vento Act's Education for Homeless Children and Youth Program entitles homeless children to a free, appropriate public education, including a pre-school education. (721(1))

States must ensure that homeless children have equal access to the same public and preschool programs; administered by the state agency, as provided to other children in the state. (722(g)9i)(F)(i))

Under the McKinney-Vento Act, every Local Educational Agency (LEA) must designate a liaison for students in homeless situations. (722(g)(1)(J)(ii))

LEA homeless liaisons must ensure that homeless children are identified, immediately enrolled in school, informed about educational rights, including transportation, and receive educational services for which they are eligible, including Head Start, Even Start programs, and preschool programs administered by the LEA. (722(g)(6)(A)(iii))

State Coordinators for the Education of Homeless Children and Youth must coordinate with social services agencies, child development and preschool program personnel, and other agencies to provide comprehensive services to preschoolers. (722(f)(4)and(5)(A))

Sub-Title VII-B of the McKinney-Vento Homeless Assistance Act

Protects all students who do not have a fixed, regular, and adequate residence, such as students living in:

- ✓ Doubled-up housing with other families or friends
- ✓ Runaway/homeless youth shelters
- ✓ Hotels or motels
- ✓ Shelters, including domestic violence shelters
- ✓ Transitional housing shelters
- ✓ Cars, abandoned buildings, parks, the streets, or other public places
- ✓ Campgrounds or inadequate trailer homes

The McKinney-Vento Act requires states and school districts to make sure students in homeless situations can attend and succeed in public school. Schools must immediately enroll students even if they do not have proof of residency, school and immunization records, birth certificates, or other documents. Students also have the right to stay at their school of origin even if their lack of housing forces them to move out of the school district. Schools must make sure that lack of transportation does not create a barrier to the homeless child's education.

Title I, Part A of the Elementary and Secondary Education Act (ESEA) targets students most at risk of failing in school. Homeless children and youth are automatically eligible for services under Title I, Part A of the ESEA, whether or not they live in a Title I school attendance area or meet the academic standards required of other children for eligibility. Homeless children and youth may receive Title I educational or support services from school-wide and targeted-assistance school programs.

A Local Educational Agency (LEA) must provide comparable services to a homeless student who does not attend a Title I school. An LEA must reserve funds for homeless children who do not attend participating Title I schools and may, for instance, provide support services to children in shelters and other locations where homeless children live. Services should be provided to assist homeless students to effectively take advantage of educational opportunities.

Title IX of the Education Amendments of 1972, Section 106.31; 106-40;106.57

Title IX provisions apply to homeless pregnant or parenting students.

Title IX says that schools cannot discriminate on the basis of pregnancy and all related conditions, or on the basis of parental, family, or marital status. In general, that means that schools must treat pregnant and parenting students in just the same way they treat other students.

Some of Title IX's requirements specific to pregnant and parenting students are:

- A school may not exclude a student from school or extracurricular activities because she is pregnant, has had a child, has had an abortion, or is recovering from any of these conditions.
- A school can require a pregnant student to submit a doctor's note saying that she is able to participate in school activities, but only if the school requires a doctor's note from all students with conditions requiring medical care.
- Absences due to pregnancy or childbirth must be excused for as long as they are deemed medically necessary by the student's doctor, after which the student must be reinstated to the status she held when the leave began and must be given an opportunity to make up the work she missed.
- Any special services for temporarily disabled students (such as homebound instruction or tutoring) must also be provided to pregnant students.
- A pregnant or parenting student must be allowed to remain in regular classes if s/he chooses to do so.
- Any voluntary program specifically designed for pregnant students should offer opportunities equal to those offered for non-pregnant students, including academically rigorous courses and the same range of extracurricular and enrichment activities.

Schools are required to designate an employee as "Title IX Coordinator," to ensure compliance and to take and investigate any complaints of sex discrimination.

Head Start Provisions on Homelessness

Economic Opportunity Act of 1941, Elementary and Secondary Education Act of 1965, Head Start Act of 1981, Head Start Reauthorization Act of 2007

The Head Start Program was developed to give low-income children additional opportunities to succeed. Head Start Preschool provides a variety of high-quality services for children and families. These services include comprehensive education, health and health screenings, dental check-ups, nutrition, and parent involvement.

The “Improving Head Start for School Readiness Act of 2007” requires that homeless children are identified and prioritized for enrollment in Head Start.

In 2007, the Head Start reauthorization included:

- ✓ A provision to serve homeless children, to include homeless children who are “sharing the housing of others due to loss of housing, economic hardship, or similar reason.”
- ✓ A requirement that homeless children must be sought out by the local Head Start and served within a reasonable time frame.
- ✓ A requirement that Head Start programs must communicate with the local school districts to help in providing services to the younger siblings of those the school has identified as homeless, as well as helping older siblings of the preschool children Head Start as identified.

General criteria:

- The major criteria to qualify for free Head Start services are income. Gross income must not exceed 100-130 percent of federal poverty guidelines.
- Children in out-of-home placements are counted as having no income, so are automatically eligible for Head Start Preschool. This category includes children in foster care, including relative foster care.
- By law, 10 percent of slots in a Head Start Preschool must be reserved for children with special needs that have Individualized Education Plans.
- At least three years old and no more than five years old.
- Head Start Preschool does not have a citizenship requirement. Children of undocumented immigrants that have proof of income eligibility may qualify.
- By law, 10 percent of children participating in Head Start may be over income or in a family experiencing an emergency.

Higher Education Act Reauthorization: Higher Education Opportunity Act, H.R. 4137, 2008

Includes numerous amendments designed to increase homeless and foster students' access to postsecondary education.

Students experiencing homelessness are at great risk of academic failure due to their extreme poverty and residential instability, yet, prior to this reauthorization, they were not specifically mentioned or targeted by any of the federal TRIO programs.

FAFSA (student financial aid) Tips on Unaccompanied Youth without Stable Housing. Homeless youth do not need a permanent address to complete FAFSA paperwork. Homeless youth may use any reliable mailing address, such as a high school, mentor, or family member.

College Cost Reduction and Access Act of 2007 (P.L. 110-84) expanded the definition of "independent student" to include:

- ✓ Unaccompanied homeless youth;
- ✓ Youth who are in foster care and any time after the age of 13 or older; and
- ✓ Youth who are emancipated minors or are in legal guardianships as determined by an appropriate court in the individual's state of residence.

Therefore, those youth can apply for federal aid without parental information or signature, effective the 2009-2010 school year and future years.

State Laws for Homeless Children and Youth

704 KAR 7:090 Homeless Children Education Program

704 KAR Section 1 Definitions (1) defines when a child from age five to twenty-one can be legally considered homeless.

A "homeless child," "homeless children," "homeless youth," and "homeless student" as "...a child or children who are between the ages of five (5) and twenty-one (21) inclusive and who are:

- a) Living with family in hotels, motels, public or private shelters due to the lack of a fixed, regular, and adequate residence;
- b) Residing in special care homes, such as runaway shelters or spouse abuse centers due to the lack of a fixed, regular, and adequate residence;
- c) Due to poverty, placed by parents to live with relatives which may cause the family members to live separately;
- d) Sleeping in a public or private place not typically used for sleeping accommodations;
- e) Sick or abandoned children staying in hospitals who would otherwise be released if they had someplace to go;
- f) Living in campgrounds or similar temporary sites because they lack living accommodations that are fixed, regular, and adequate; or
- g) Runaway or throwaway youth who have been "thrown out" of their home environment who are living in a shelter, on the street, or who move from one friend's house to another in a cycle of transience.

“School of origin” is defined to mean that the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.

KAR Section (2) states that “Homeless children or homeless youth who reside within the boundaries of a local school district shall be provided a free, appropriate, public education.” KAR Section (3)(4) states that in the absence of a parent, and a court-appointed custodian or guardian, any medical, dental, and other health services may be rendered to a homeless student who is a minor of any age when, in the judgment of the school principal or other professional that the risk to the minor’s health is of such a nature that treatment should be given without delay and the requirements of consent would result in delay or denial of treatment.

Federal Laws for Homeless Children and Youth with Disabilities

The Individuals with Disabilities Education Improvement Act (IDEA), amended in 2004 is the main federal law guiding special education. Under the law, special education is specially designed instruction to meet the needs of individual students. IDEA also allows for related services, which include transportation, speech or language therapy, physical therapy, psychological services, social work services, counseling, medical services, recreation and other needed services. Schools must provide these services if students need them to benefit from a special education program. IDEA protects all students who need special education and related services. Following the 2004 amendment, IDEA now mentions specifically and observes the McKinney-Vento definition of “homeless children and youth.” This includes those who are homeless, between the ages of 3 and 21.

1997 Child Find requirement (federal regulation for all states receiving IDEA funds):
Specific requirement that states ensure that homeless children with disabilities are identified, located, and evaluated.

ABA Center on Children and the Law

www.aganet.org

National Association for the Education of Homeless Children and Youth

www.naehcy.org

LeTendre Education Fund

Scholarship program for homeless students.

www.naehcy.org/about_letendre.html

National Center for Homeless Education

www.serve.org/nche

National College Access Network (NCAN)

www.collegeaccess.org/NCAN

National Network for Youth

Membership organization of community-based, faith-based, and public agencies working with runaway, homeless, and other disconnected youth.

www.nn4youth.org

National Runaway Switchboard

www.1800runaway.org

Student Aid on the Web

U.S. Department of Education website on preparing for college and applying for student aid

www.studentaid.ed.gov

National Women’s Law Center

www.nwlc.org

U.S. Department of Education’s Education for Homeless Children and Youths Program

www.ed.gov/programs/homeless

National Law Center on Homelessness and Poverty

nlchp@nlchp.org

The EDLAW Center, Inc.

www.edlaw.net

National Association for the Education of Homeless Children and Youth (NAEHCY)

www.naehcy.org

Council for Exceptional Children

www.cec.sped.org

National Association of Protection and Advocacy Systems (NAPAS)

www.napas.org

Employment

Age Discrimination in Employment Act of 1974 (ADEA)

Prohibits employers from arbitrarily discriminating against persons over age 40 with regard to hiring, discharge, pay, promotions, fringe benefits, and other employment decisions. The law is designed to promote the employment of older persons on the basis of ability rather than age to help employers and workers find ways to meet problems arising from the impact of age on employment.

Enforced by the U.S. Equal Employment Opportunity Commission.

Americans with Disabilities Act (ADA)

Prohibits employers from discriminating against “otherwise qualified disabled individuals” in hiring, advancement, discharge, compensation, training, and other terms, conditions and privileges of employment (such as job assignment, return from layoff, leaves of absence, selection for professional meetings or conferences, and participation in employer-sponsored social or recreational programs).

Enforced by the U.S. Department of Justice, the Office for Civil Rights, U.S. Department of Education, and the U.S. Equal Employment Opportunity Commission.

Civil Rights Act of 1964 (Title VII)

The major federal law prohibiting discrimination in employment. Prohibits discrimination based on race, sex, color, religion, or national origin. Covers all areas of the employee-employer relationship, from advertising open positions through termination or retirement.

Enforced by the U.S. Equal Employment Opportunity Commission.

Rehabilitation Act of 1973, (503-504)

Prohibits discrimination against the disabled. Requires institutions to take affirmative action to hire and promote qualified disabled persons and make academic programs accessible to disabled persons. Institutions are not required to set goals or to perform utilization analyses but must recruit and consider disabled persons for vacant positions. Institutions must also make “reasonable accommodation” to the physical or mental limitations of otherwise qualified disabled employees, such as providing special equipment or modifying the job.

Enforced by the Office of Federal Contract Compliance Programs, the Office for Civil Rights, and the U.S. Department of Education.

Vietnam Era Veterans Readjustment Act of 1974

Prohibits discrimination in employment against disabled veterans and the veterans of the Vietnam Era by institutions holding federal contracts exceeding \$10,000 annually. Requires employers to list all suitable employment openings with the state employment service.

Enforced by the U.S. Equal Employment Opportunity Commission.

KRS Chapter 344.00.015

State implementation plans for Federal Civil Rights Act, Title VI.

Equal Employment Opportunity Commission
www.eeoc.gov

US Office for Civil Rights
www.usccr.gov

Kentucky Equal Justice Center
www.kyequaljustice.org

Food and Feeding

Rights Related to Food Stamp Benefits:

Homeless people applying for Food Stamps have the right to:

- **Apply without having a permanent address.** Program regulations require states to assist households that do not reside in a permanent dwelling or have a fixed mailing address in obtaining their regular monthly benefits.
- **Apply without having food preparation or cooking facilities.** This regulation is particularly helpful for homeless recipients. If a recipient lives on the street, or in a shelter that does not have cooking facilities, they are still eligible to collect benefits and purchase their own food.
- **Request expedited service.** Many homeless applicants qualify for expedited service, which requires that the agency provide food stamps within seven (7) days of the application date. Households are entitled to expedited service when they:
 - 1) have less than \$150.00 in monthly gross income and liquid resources that do not exceed \$100.00;
 - 2) are destitute migrant households and their liquid resources do not exceed \$100.00; or
 - 3) have shelter costs (rent or mortgage payments and utilities) that exceed their gross monthly income.

To get expedited service, verification of the applicant's identity is required. No other verification is needed to receive the first month's worth of food stamps. In order to receive additional months of food stamps, an applicant will need to verify income, resources, and expenses.

- **Use "any document which reasonably establishes their identity" to meet the identity verification requirement.** Examples of acceptable documentation include, but are not limited to:
 - ✓ A driver's license,
 - ✓ A work or school ID,
 - ✓ An ID for another benefit program such as Medicaid,
 - ✓ A voter registration card,
 - ✓ A wage stub, or
 - ✓ A birth certificate.

If no documentation is available, the food stamp agency can verify identity through a collateral contact, such as a call to a homeless shelter or a case manager. Under these liberal rules, the state agency should be able to verify information for almost any homeless client.

- **Qualify for the homeless shelter deduction** in the 13 states that currently offer it. Federal regulations authorize each state to offer a standard shelter deduction, to be applied to homeless households, to account for shelter expenses in the past month. As of October 1, 2001, the deduction was fixed at \$143. The deduction is designed to account for money a homeless person uses for shelter (i.e., a hotel room), which varies from

month to month. This option grants a fixed deduction for expenses that homeless people have difficulty documenting and allows for a larger food stamp allotment in most cases.

According to the Kentucky Cabinet for Health and Family Services, as a food benefits recipient, you have the following rights:

1. Your household may begin the process of applying for food benefits the same day you visit the food benefit office by completing a short form.
2. Your household will be notified within thirty (30) days of applying for food benefits if your application is approved or denied.
3. Your household may receive food benefits within a few days if you qualify and have little or no money, or if you meet certain income requirements.
4. If you disagree with any action taken in your case, you are entitled to a fair hearing. At this hearing, your household will have a chance to tell an impartial hearing officer why you disagree with any action in your case. If it is found that an error has been made in your household's case, you will receive any benefits denied as a result of the error.

By federal law, sales tax may not be charged on food purchased with food benefits. If your household purchases food with a combination of food benefits and cash, sales tax may only be charged for taxable items paid with cash.

Federal Food Stamp Act, 7 USC§2011 et seq.

A free interpreter can be provided to an individual applying for services if they have trouble speaking or cannot speak English.

- Anyone who wants to receive K-TAP (cash benefits), Food Stamps, or Medicaid benefits must give his or her Social Security Number (SSN) and tell the cabinet about his or her immigration or citizenship status. If you do not have one, we can help you get one if you are eligible for one. This will not delay the application process. Applying for an SSN is voluntary.
- SSN will not be used to report anyone to the Immigration and Naturalization Service (INS)
- You do not have to tell the cabinet about the SSN, citizenship, or immigration status of yourself or anyone else in your home who does not want to receive benefits. Other members of your home can still get the benefits if they qualify.
- SSNs are used to verify your family's income and to do computer matches with other agencies such as the Kentucky Department of Employment Services, the Internal Revenue Service, and other matching sources.
- Receiving Medicaid, Kentucky Children Insurance Program (KCHIP), or Food Stamp benefits will not affect you or your family's ability to change your immigration status. An exception to this is the use of long-term institutional care, such as a nursing home.
- Receiving K-TAP or Supplemental Security Insurance (SSI) could cause problems for immigrants who are trying to change their immigration status, especially if the benefits are your family's only source of income. If this applies to you, talk to an agency that helps immigrants with legal problems before you apply.
- Refugees and persons granted asylum may receive any benefit, including K-TAP, without hurting their chances of changing their immigration status or becoming a U.S. citizen.

Child Nutrition Act of 1966 as amended, Child Nutrition, and WIC Reauthorization Act of 2004 (P.L. 108-265)

An act to strengthen and expand food service for children.

Homeless Priorities:

- National School Breakfast and School Lunch Program provides migrant, homeless, and runaway children with automatic eligibility for free school meals.
- Child and Adult Care Food Program (CACFP) extends eligibility for snacks and meals for children in homeless and domestic violence shelters up to the age of 18.
- When WIC cannot serve all eligible people, a system of priorities issued for filling program openings has been established and includes “Individuals at nutrition risk only because they are homeless or migrants and have current participants who, without WIC foods, could continue to have medical and/or dietary problems.”
- Extends automatic free school meal eligibility to migrant children and youth, identified eligible for the Migrant Education Program (MEP) as authorized under Title I Part C of the Elementary and Secondary Education Act.

WIC provides nutritious foods, nutrition education, and referrals to health and other social services to participants at no charge. WIC serves low-income, pregnant, postpartum, and breastfeeding women, and infants and children up to 5 who are at nutritional risk. To be eligible on the basis of income, applicants’ family income must fall at or below 185 percent of the U.S. Poverty Income Guidelines. A person who participates or has family members who participate in certain other benefit programs, such as the Supplemental Nutrition Assistance Program, Medicaid, or Temporary Assistance for Needy Families, automatically meets the income eligibility requirement.

National School Breakfast and Lunch Program

A federal entitlement program that provides money to schools so that they can offer nutritious meals to students.

Homeless students automatically qualify for the free breakfast and lunch program. All school districts are required to provide a parent with a Verification of Homelessness for Food Service form. It is the school district’s responsibility to ensure this form is completed.

Every school district is required to have a homeless liaison (or coordinator) to assist homeless families to enroll in the free feeding program. Homeless shelters and services providers may access forms for this program through the local school district.

Participation of Emergency Shelters Serving Homeless Children

Several provisions of the Child Nutrition Reauthorization Act of 1998 affect the administration of benefits to homeless children.

Cabinet for Health & Family Services

www.chfs.ky.gov

Food Research & Action Center
www.frac.org

National Law Center on Homelessness and Poverty
www.nlchp.org

United States Department of Agriculture
www.fns.usda.gov/fns

Housing and Fair Housing

Federal Fair Housing Act

Sec. 801 (42 USC§3601)

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United State.

Under the Fair Housing Act, it is against the law to discriminate in the sale or rental of housing based on race, color, national origin, religion, sex, familial status (families with children under the age of 18 or who are expecting a child), or handicap.

Based on the above factors, it is against the law to:

- Refuse to rent to you or sell you housing
- Tell you housing is unavailable when in fact it is available
- Show you apartments or homes in certain neighborhoods only
- Advertise housing to preferred groups of people only
- Refuse to provide you with information regarding mortgage loans, deny you a mortgage loan, or impose different terms or conditions on a mortgage loan
- Deny you property insurance
- Conduct property appraisals in a discriminatory manner
- Refuse to make certain modifications or accommodations for persons with a mental or physical disability, including persons recovering from alcohol or substance abuse, and HIV/AIDS related illnesses
- Failure to design and construct housing in an accessible manner
- Harass, coerce, intimidate, or interfere with anyone exercising or assisting someone else with their fair housing rights

KRS 344.010, 360, 367

Kentucky Fair Housing Law

Requires fair treatment and equal housing opportunities for all persons, regardless of race, color, religion, national origin, gender, familial status and disability.

Public Law 110-199

Second Chance Act of 2007

Legislation designed to ensure the safe and successful return of prisoners into the community.

Kentucky Commission on Human Rights

www.kchr.ky.gov

Lexington Fair Housing Council

www.lexingtonfairhousing.com

National Reentry Resource Center

www.reentrypolicy.org

Identification

Homeless individuals living in Kentucky can legally obtain a state issued identification card with testimony by way of signature from an agency official or professional that the individual is in fact a current resident of Kentucky.

KRS 186.412 (7) (a)

An application for a personal identification card shall be accompanied by the same information as is required for an operator's license. A Kentucky resident who does not have a fixed, permanent address may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.

If a homeless individual is utilizing an address to obtain identification the applicant must legally give testimony that they have permission.

KRS 186.412 (7) (c)

If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the personal identification card.

Social Security Identification

New or replacement social security cards may be obtained for free.

To get a social security number or card, you must prove your U.S. Citizenship or immigration status, age and identity. For a replacement card, proof of your U.S. Citizenship and age are not required if they are already in Social Security's records. Only certain documents are accepted as proof of U.S. Citizenship. These include your U.S. birth certificate, a U.S. passport, a Certificate of Naturalization or a Certificate of Citizenship. If you are not a U.S. citizen, different rules apply for proving your immigration status. Acceptable proofs of identity include current documents showing your name, identifying information, and preferably, a recent photograph, such as a driver's license or a state-issued identification card.

Kentucky Legislative Research Commission

www.lrc.ky.gov

Social Security Administration

www.ssa.gov

Immigrant, Refugee, Language Accessibility

Civil Rights Act of 1941: Title VI

Prohibits discrimination on the basis of race, color, and national origin in all federally assisted programs.

Executive Order 13166

Improving Access to Services for Persons with Limited English Proficiency

Requires all federal, local, and state agencies that receive federal funding to ensure that people with limited language skills have meaningful access to government programs and services.

Head Start Reauthorization Act of 2007

The Head Start Program was developed to give low-income children additional opportunities to succeed. Head Start does not have a citizenship requirement. Children of undocumented immigrants that have proof of income eligibility may qualify.

Immigration and Nationality Act (INA)

8 USC §§ 1101 et seq.

The INA includes a special immigrant juvenile status and a battered child status, allowing immigrant youth who are abused, neglected, or abandoned to apply for legal permanent residence.

KRS 529.100, 529.010, 529.110

Human Trafficking; Sex Trafficking; Promoting Human Trafficking

Kentucky law that criminalizes trafficking in persons.

Personal Responsibility and Work Opportunity Act of 1996

Section 410(b)(1)(D) and 411(b)(4)

Final Order Number 2353-2001, 66 Fed. Reg. 3613-3616 (1/16/01)

Designation of the kinds of government-funded community programs, services, or assistance necessary to protect life or safety for which all immigrants, including undocumented immigrants, will continue to be eligible.

The Order specifically includes emergency and short-term shelter for victims of domestic violence and makes these services available to battered immigrants, who because of their lack of legal immigration status, would otherwise be barred from participation in federal programs.

The list of programs open to all individuals without verification of alien eligibility includes:

- ✓ Crisis counseling and intervention programs
- ✓ Services and assistance relating to child protection
- ✓ Adult protective services
- ✓ Violence and abuse prevention
- ✓ Victims of domestic violence
- ✓ Short-term shelter or housing assistance for the homeless
- ✓ Runaway, abused, or abandoned children

Programs, services, or assistance must meet these three requirements:

- ✓ Deliver in-kind service at the community level, including through public and private non-profit agencies.
- ✓ Do not condition the provision of assistance provided on the individual recipient's income or resources.
- ✓ Are necessary for the protection of life or safety.

Trafficking and Violence Protection Act (TVPA) 2000

Trafficking and Victim's Protection Reauthorization Act of 2005

H.R.972

Legislation that made promoting and engaging in human trafficking a federal crime; offers services and immigration relief to victims of severe forms of human trafficking.

Violence Against Women Act (VAWA) 2000

Provisions for Battered Immigrant Women

This law allows women to petition for adjustment of status for themselves and exempts them from Section 245c of the Immigration and Nationality Act, which prohibits immigrants who have engaged in unauthorized employment, who have failed to maintain valid immigration status, and a number of others from applying for adjustment of status. Under the revised VAWA, applicants no longer have to show that they would face extreme hardship and are allowed to apply for permanent residence from outside the U.S., if they can demonstrate that they were victims of domestic violence in the U.S.

To be eligible for adjustment of status under the VAWA, the petitioner must show one of the following:

- ✓ Their marriage was ended within the past two years for reasons connected to domestic violence;
- ✓ The abuser lost his immigration status within the past two years for reasons related to domestic violence; or
- ✓ It a U.S. citizen, the abuser died within the past two years, or was a bigamist.

To be eligible for a "U" visa, the applicant must have suffered substantial physical or mental abuse because of a variety of crimes, including domestic violence and involuntary servitude. The applicant must have information relating to this crime that would be of assistance to law enforcement in investigating or prosecuting it. U visa holders are work authorized, and are able to apply or adjustment of status after three years.

Department of Housing & Urban Development

LEP Guidance

www.hud.gov

Immigrant Legal Resources Center

www.ilrc.org

Kentucky Equal Justice Center

www.kyequaljustice.org

**Limited English Proficiency
Federal Interagency Website**
www.lep.gov

National Immigration Law Center
www.nilc.org

Office of Violence Against Women
www.usdoj.gov/ovw

Rescue and Restore Kentucky
www.rescueandrestoreky.com

Medical

Emergency Medical Treatment & Active Labor Act of 1986 (EMTALA)

42 USC§1395dd

Requires most hospitals to provide an examination and needed stabilizing treatment, without consideration of insurance coverage or ability to pay, when a patient presents to an emergency room for attention to an emergency medical condition (EMC) and labor.

Section 1867 of the Social Security Act imposes specific obligations on Medicare-participating hospitals that offer emergency services to provide a medical screening examination (MSE), when a request is made for examination or treatment for an emergency medical condition, including active labor, regardless of an individual's ability to pay. Hospitals are required to provide stabilizing treatment for patients with EMCs. If a hospital is unable to stabilize a patient within its capability, or if the patient requests, an appropriate transfer should be implemented.

The Privacy Act of 1974 (5 USC§ 552a(d))

Provides that each agency that maintains a system of records containing information pertaining to an individual shall, upon the request of the individual, permit him to review the record and to have a copy made of it. The individual may request that information he believes to be erroneous be corrected, and the agency must either make the correction or inform the individual of the reason for refusing to correct. The individual may then have the decision reviewed within 30 days.

Centers for Medicare & Medicaid Services

www.cms.hhs.gov

Emergency Medical Treatment & Labor Act Resources

www.emtala.com

Privacy Rights Clearinghouse

www.privacyrights.org/ar/homeless.htm

Migrant & Seasonal Agricultural Worker

Child Nutrition Act of 1966 as amended, Child Nutrition, and WIC Reauthorization Act of 2004 (P.L. 108-265)

An act to strengthen and expand food service for children.

Homeless Priorities:

- ✓ National School Breakfast and School Lunch Program provides migrant, homeless, and runaway children with automatic eligibility for free school meals.
- ✓ Child and Adult Care Food Program (CACFP) extends eligibility for snacks and meals for children in homeless and domestic violence shelters up to the age of 18.
- ✓ When WIC cannot serve all eligible people, a system of priorities issued for filling program openings has been established and includes “Individuals at nutrition risk only because they are homeless or migrants and have current participants who, without WIC foods, could continue to have medical and/or dietary problems.”
- ✓ Extends automatic free school meal eligibility to migrant children and youth, identified eligible for the Migrant Education Program (MEP) as authorized under Title I Part C of the Elementary and Secondary Education Act.

The Migrant and Seasonal Agricultural Worker Protection Act (MPSA)

Migrant and seasonal farm workers have these rights:

- To receive accurate information about wages and working conditions for the prospective employment;
- To receive this information in writing in English, Spanish, or other languages, as appropriate;
- To have the terms of the working arrangement upheld;
- To have farm labor contractors show proof of registration at the time of recruitment;
- To be paid wages when due;
- To receive itemized, written statements for earnings for each pay period;
- To purchase goods from the source of their choice;
- To be transported in vehicles which are properly insured and operated by licensed drivers, and which meet federal and state safety and health standards; and
- For migrant farm workers who are provided housing:
 - To be housed in property which meets federal and state safety standards;
 - To have the housing information presented to them in writing at the time of recruitment; and
 - To have posted in a conspicuous place at the housing site or presented to them a statement of the terms and conditions of occupancy.

Kentucky Migrant Education Program

www.education.ky.gov

Office of Migrant Education

www.ed.gov

Veterans

Homeless Veterans Comprehensive Assistance Act of 2001

Required that the veterans Administration create a program to expand and improve provision of benefits and services to homeless veterans.

Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA 38 U.S.C. 4301-4335)

Employment and Reemployment

The Department of Labor, through the Veterans' Employment and Training Service (VETS), provides assistance to all persons having claims under USERRA.

The Uniformed Services Employment and Reemployment Rights Act (USERRA) clarifies and strengthens the Veterans' Reemployment Rights VRR legislation.

USERRA protects civilian job rights and benefits for veterans and members of Reserve components. USERRA establishes that reemployment protection does not depend on the timing, frequency, duration, or nature of an individual's service as long as the basic eligibility criteria are met.

USERRA provides protection for disabled veterans, requiring employers to make reasonable efforts to accommodate the disability. Service members convalescing from injuries received during service or training may have up to two years from the date of completion of service to return to their jobs or apply for reemployment.

USERRA provides that returning service-members are reemployed in the job that they would have attained had they not been absent for military service ("escalator principle"), with the same seniority, status and pay, as well as other rights and benefits determined by seniority.

The law provides for alternative reemployment positions if the service member cannot qualify for the "escalator" position. USERRA provides that while an individual is performing military service, he or she is deemed to be on a furlough or leave of absence and is entitled to the non-seniority rights accorded to other individuals on non-military leave of absence.

The period an individual has to make application for reemployment or report back to work after military service is based on time spent on military duty. USERRA requires that service members provide advance written or verbal notice to their employers for all military duty unless giving notice is impossible, unreasonable, or precluded by military necessity.

Jobs for Veterans Act of 2002 Veterans' Preference

The U.S. Government has laws to assist veterans who seek federal employment from being penalized for their time in military service. Veterans who are disabled or who served on active duty in the Armed Forces during certain specified time periods or in military campaigns are

entitled to preference over others in hiring from competitive lists and also in retention during reductions in force.

Veterans Employment Opportunities Act (VEOA) of 1998

Provides that a veteran or other preference eligible person who believes that his or her rights under any law or regulation related to veterans' preference have been violated may file a written complaint with the U.S. Department of Labor's Veterans' Employment and Training Service.

Replacing Personal Records

Military Service Record (DD 214) and/or Official Military Personnel File (OMPFs)

According to the Department of Veteran's Affairs, homeless veterans are entitled to one copy of their service and medical records free of charge.

Send requests to:

National Personnel Records Center

Military Personnel Records

9700 Page Avenue

St. Louis, MO 63132-5100

Or fax request to:

314-801-9201

Write "Homeless Veteran Case" clearly on form

Veterans discharged from the Navy after December 31, 1994, and the Marine Corps after September 30, 2001, should send request to:

Navy Personnel Command, PERS 312E

5720 Integrity Drive

Millington, TN 38055-3120

Veterans Consumer Rights

The Service Members Civil Relief Act may apply to an action or proceeding commenced in a court against a service member before or during the period of the service member's military service or within 90 days after such service.

It also includes consumer protections for maximum rates of interest on debts incurred before military service.

Vietnam Era Veterans Readjustment Act of 1974

Prohibits discrimination in employment against disabled veterans and veterans of the Vietnam era by institutions holding federal contracts exceeding \$10,000 annually. Requires employers to list all suitable employment openings with the state employment service.

Homeless Veterans Reintegration Program

www.hvrp.org

HUDVET

www.hud.gov

Kentucky Department of Veterans Affairs

www.veterans.ky.gov

Kentucky Women's Veterans Program

www.veterans.ky.gov

National Coalition for Homeless Veterans

www.nchv.org

Veterans Records

www.vetreco.archives.gov

U.S. Department of Labor

Veterans Employment and Training Service (DOL-VETS)

www.dol.gov

www.dol.gov/vets/aboutvets/contacts/main.html

U.S. Department of Veterans Affairs

www.va.gov/homeless

Voting

According to the National Coalition for the Homeless, individuals living in shelter are allowed to register to vote. People living on the street are also allowed to register. A mailing address is required to register; verbal only policy allows registration.

Homeless individuals have the right to vote in Kentucky if they meet voter registration regulations. Regulations do not include a permanent address, but only a mailing address that may be the address of a shelter or other service agency.

Voting Rights Act of 1965, 1975, 2006

Prohibits states from imposing any voting qualification or prerequisite to voting, or standard, practice, or procedure...to deny or abridge the right of any citizen of the United States to vote on account of race, color, or membership in a language minority group. Includes language provisions, multi-lingual ballots and election materials.

Voting Accessibility Act of 1984:

This act says that all polling places are required to be physically accessible. If a polling place is not accessible, then it should be moved to another location, or be made temporarily accessible. It is only when this is not possible that your local election officials can require you to vote by an alternative method, such as curbside voting.

National Voter Registration Act (NVRA) of 1993 (Motor Voter Act)

This act enhanced voting opportunities for every American. This act made it easier for all Americans to vote and maintain their registration.

Help America Vote Act (HAVA) of 2002

Requires an individual be provided with a provisional ballot if his/her right to vote is challenged. A provisional ballot is a ballot that is segregated from the other ballots and will only be counted once a voter's registration has been verified.

Kentucky Voting Laws

KRS 117.227 and KAR 4:010 (2007)

Kentucky voters without identification who are not first-time mail-in registrants can vote in person if an election officer or official "knows the identity of the voter" or confirms the identity of the voter by "personal acquaintance."

To **qualify to register to vote in Kentucky**, you must be a United States citizen, be a resident of Kentucky not less than 28 days before the election, be at least 18 years old by the date of the next general election, not be a convicted felon (or have civil rights restored), must not be judged mentally incompetent in a court of law, and not claim the right to vote anywhere outside Kentucky. Minors 17 years of age who will become 18 by the November general election are eligible to vote in the prior May primary election only.

One can **obtain a voter registration form** in person or obtain a mail-in application from the following locations.

- County Election Office
- Driver's license office (if you are applying or renewing your driver's license)
- K-TAP, Food Stamp, Medicaid, WIC, and state funded offices serving those with disabilities (if you are a client of these public assistance offices)
- Armed Forces recruitment offices (if you are a prospective member of the Armed Forces)
- High schools (if you are a staff member)

Kentucky Absentee Ballots can be obtained if one of the following criteria is met.

- Advanced age, disability, or illness
- Military personnel, their dependents, and overseas citizens
- Student who temporarily resides outside the county
- Other voter who temporarily resides outside Kentucky, such as a vacationer
- Incarcerated but not yet convicted
- Your employment takes you out of the county all hours the polling place is open

The deadline for applying for a mail-in absentee ballot is 7 days before an election. The completed application must be received by the County Clerk by mail or in person by the seven day deadline.

A **voting machine** at the County Clerk's office is available 12 (or more) working days before the election for those voters who are qualified to vote by absentee ballot. One must fulfill one of the following criteria.

- Out of the country on Election Day
- Military personnel, their dependents, and overseas citizens
- Military personnel confined to their base who learn of it within seven days or less of an election
- Student or resident who temporarily resides outside the county
- Surgery scheduled that will require hospitalization of voter or voter's spouse on Election Day
- You are pregnant and in your third trimester
- Election officials

If there is a medical emergency, you or your spouse may apply for medical emergency absentee ballot within 14 days of the election.

KRS 196.045

Restoration of Voting Rights

Requires the Kentucky Department of Corrections to inform eligible individuals of their right to apply for restoration of voting rights and to assist them with the application process.

American Bar Association

www.abanet.org

Kentucky State Board of Elections

www.elect.ky.gov

National Coalition for the Homeless

www.nationalhomeless.org

National Homeless Resource Center

www.nrchmi.samhsa.gov

National Low Income Housing Coalition

www.nlihc.org

U.S. Department of Justice

www.justice.gov

Disclaimer

The information contained in the publication is not all inclusive. We consider this primer a work in progress and welcome additional information.

Please report any errors or exclusions to: lalcott@barrenriverareasafespace.com

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