

1 AN ACT relating to pretrial release.

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

3 → Section 1. KRS 431.066 is amended to read as follows:

- 4 (1) For purposes of this section, "verified and eligible defendant" means a defendant
5 who pretrial services is able to interview and assess, and whose identity pretrial
6 services is able to confirm through investigation.
- 7 (2) When a court considers pretrial release and bail for an arrested defendant, the court
8 shall consider whether the defendant constitutes a flight risk, is unlikely to appear
9 for trial, or is likely to be a danger to the public if released. In making this
10 determination, the court shall consider the pretrial risk assessment for a verified and
11 eligible defendant along with the factors set forth in KRS **431.064 and** 431.525.
- 12 (3) If a verified and eligible defendant poses low risk of flight, is likely to appear for
13 trial, and is not likely to be a danger to others, the court shall order the defendant
14 released on unsecured bond or on the defendant's own recognizance subject to such
15 other conditions as the court may order, **except as provided in subsection (5) of this**
16 **section.**
- 17 (4) If a verified and eligible defendant poses a moderate risk of flight, has a moderate
18 risk of not appearing for trial, or poses a moderate risk of danger to others, the court
19 shall release the defendant under the same conditions as in subsection (3) of this
20 section but ~~may~~^{shall} consider ordering the defendant to participate in global
21 positioning system monitoring, controlled substance testing, increased supervision,
22 or such other conditions as the court may order, **except as provided in subsection**
23 **(5) of this section.**
- 24 **(5) When a verified and eligible defendant is released on recognizance or on**
25 **unsecured bond, any conditions imposed by the court shall be the least restrictive**
26 **necessary to ensure appearance in court and mitigate danger, and shall not be**
27 **imposed as a means of punishment.**

1 ~~(6)~~~~(5)~~ (a) Except as provided in paragraph (b) of this subsection, regardless of the
 2 amount of the bail set, the court shall permit the defendant a credit of one
 3 hundred dollars (\$100) per day as a payment toward the amount of the bail set
 4 for each day or portion of a day that the defendant remains in jail prior to trial.
 5 Upon the service of sufficient days in jail to have sufficient credit to satisfy
 6 the bail, the defendant shall be released from jail on the conditions specified
 7 in this section or in this chapter.

8 (b) The provisions of paragraph (a) of this subsection shall not apply to:

- 9 1. Any person convicted of, pleading guilty to, or entering an Alford plea
 10 to a felony offense under KRS Chapter 510, KRS 529.100 involving
 11 commercial sexual activity, KRS 530.020, 530.064(1)(a), 531.310, or
 12 531.320, or who is a violent offender as defined in KRS 439.3401; or
- 13 2. A defendant who is found by the court to present a flight risk or to be a
 14 danger to others.

15 (c) For purposes of this subsection, "a day or portion of a day" means any time
 16 spent in a detention facility following booking.

17 (d) A defendant shall not earn credit pursuant to paragraph (a) of this subsection
 18 while also earning credit pursuant to KRS 534.070.

19 ~~(7)~~~~(6)~~ If a court determines that a defendant shall not be released pursuant to
 20 subsection ~~(6)~~~~(5)~~ of this section, the court shall document the reasons for denying
 21 the release in a written order.

22 ~~(8)~~~~(7)~~ The jailer shall be responsible for tracking the credit earned by a defendant
 23 pursuant to subsection ~~(6)~~~~(5)~~ of this section.

24 **(9) Notwithstanding any other provision of law, any person who is denied pretrial**
 25 **release or who remains in detention because he or she is unable to meet the**
 26 **conditions of pretrial release shall, unless waived by the defendant, have his or**
 27 **her case tried:**

- 1 (a) If a felony offense, within one hundred eighty (180) days of his or her first
2 appearance in the court in which he or she will be tried; or
- 3 (b) If a misdemeanor offense, within ninety (90) days of his or her first
4 appearance in the court in which he or she will be tried.
- 5 (10) If a person who remains in detention because he or she is unable to meet the
6 conditions of pretrial release is not brought to trial within the time frame
7 established in subsection (9) of this section, he or she shall receive a hearing
8 within forty-eight (48) hours of that time frame elapsing. Following the hearing,
9 he or she shall be released unless the court finds by clear and convincing
10 evidence that he or she poses a particularized risk of imminent serious physical
11 harm to a person or persons other than himself or herself, such that no
12 nonfinancial conditions or combination of conditions of release will reasonably
13 address that risk.
- 14 (11) The time periods established in subsection (9) of this section may be extended,
15 upon motion by the prosecution or the defense and good cause found by the
16 court. The court shall establish a revised time frame and shall state on the record
17 the reasons for extending the time period.
- 18 (12) The following time periods shall be excluded in computing the time periods
19 established in subsection (9) of this section:
- 20 (a) Prior to August 1, 2026, each day of delay resulting from the processing of
21 evidence by the Kentucky State Police forensic laboratory; and
- 22 (b) The time resulting from an examination and hearing on competency and
23 the period during which the defendant is incompetent to stand trial.
- 24 (13) If at any time following release of a defendant and before he or she is required to
25 appear for trial the defendant is charged with a new offense that results in the
26 defendant's pretrial detention, the time calculations set forth in this section shall
27 run independently for each matter.

1 (14) If at any time following release of a defendant and before he or she is required to
 2 appear for trial the defendant's bond is revoked or the conditions of his or her
 3 release are changed because he or she has not complied with all of the conditions
 4 imposed, the time periods established in subsection (9) of this section may be:

5 (a) Tolloed for the duration of the defendant's pretrial release, and resume at the
 6 number of days the defendant previously spent in pretrial detention; or

7 (b) Calculated to begin the day the defendant is detained after the revocation of
 8 bond or modification of pretrial release conditions.

9 The court shall state on the record the time period established under this
 10 subsection.

11 (15) A defendant shall not remain in detention because he or she is unable to meet the
 12 conditions of pretrial release for a total period that exceeds:

13 (a) If the most serious offense charged is a misdemeanor, the maximum term
 14 of imprisonment which may be imposed for the most serious offense
 15 charged; or

16 (b) If the most serious offense charged is a felony, the minimum term of
 17 imprisonment which may be imposed for the most serious offense charged.

18 ➔ Section 2. KRS 431.520 is amended to read as follows:

19 (1) Any person charged with an offense shall be ordered released by a court of
 20 competent jurisdiction pending trial on his personal recognizance or upon the
 21 execution of an unsecured bail bond in an amount set by the court or as fixed by the
 22 Supreme Court as provided by KRS 431.540, unless the court determines in the
 23 exercise of its discretion that such a release will not reasonably assure the
 24 appearance of the person as required, or the court determines the person is a flight
 25 risk or a danger to others. When such a determination is made, the court shall, either
 26 in lieu of or in addition to the above methods of release, impose any of the
 27 following conditions of release:

1 ~~(a)~~~~(1)~~ Place the person in the custody of a designated person or organization
2 agreeing to supervise him or her;

3 ~~(b)~~~~(2)~~ Place restrictions on the travel, association, or place of abode of the
4 person during the period of release;

5 ~~(c)~~~~(3)~~ Require the execution of a bail bond:

6 ~~1.~~~~(a)~~ With sufficient personal surety or sureties acceptable to the court;
7 in determining the sufficiency of such surety or sureties, the court shall
8 consider his or her character, his or her place of residence, his or her
9 relationship with the defendant, and his or her financial and
10 employment circumstances; or

11 ~~2.~~~~(b)~~ With the ten percent (10%) deposit as provided in KRS 431.530;
12 provided that if the defendant is permitted to earn credit toward bail
13 pursuant to KRS 431.066, that credit shall be applied to the ten percent
14 (10%) deposit; or

15 ~~3.~~~~(c)~~ With the deposit of cash equal to the amount of the bond or in lieu
16 thereof acceptable security as provided in KRS 431.535;

17 ~~{(4) If the person's record indicates a history of controlled substance or alcohol~~
18 ~~abuse:~~

19 ~~(a) Order the person to submit to periodic testing for use of controlled~~
20 ~~substances or alcohol and pay a reasonable fee, not to exceed the actual~~
21 ~~cost of the test and analysis, as determined by the court with the fee to~~
22 ~~be collected by the circuit clerk, held in an agency account, and~~
23 ~~disbursed, on court order, solely to the agency or agencies responsible~~
24 ~~for testing and analysis as compensation for the cost of the testing and~~
25 ~~analysis performed under this subsection. If the person is declared~~
26 ~~indigent, the testing fee may be waived by the court. The Administrative~~
27 ~~Office of the Courts shall establish pilot projects to implement the~~

1 provisions of this subsection; or

2 ~~(b) Order the person to use an alcohol monitoring device, as defined in KRS~~
 3 ~~431.068. All costs associated with the device, including administrative~~
 4 ~~and operating costs, shall be paid by the defendant. If the court~~
 5 ~~determines that the defendant is indigent, and a person, county, or other~~
 6 ~~organization has not agreed to pay the costs for the defendant in an~~
 7 ~~attempt to reduce incarceration expenses and increase public safety, the~~
 8 ~~court shall consider other conditions of release provided for in this~~
 9 ~~section;]~~

10 (d) 1.[(5)(a)] During all or part of a person's period of release pursuant to this
 11 section, order the person to participate in a global positioning
 12 monitoring system program operated by a county pursuant to KRS
 13 67.372 and 67.374 under the same terms and conditions provided under
 14 KRS 431.517, **except as provided in subsection (4) of this section.**

15 2.[(b)] If the person is charged with a sex crime as defined in KRS
 16 17.500, consider requiring that he or she be monitored electronically,
 17 and shall consider requiring the person be subject to home incarceration;

18 **or**

19 (e) [(6)] Impose any other condition deemed reasonably necessary to
 20 **ensure**~~assure~~ appearance as required, including a condition requiring that the
 21 person return to custody after specified hours. ~~;~~

22 **(2) If the court orders a defendant charged with any offense to be released on**
 23 **recognizance or unsecured bond, the court may impose certain conditions of**
 24 **release, except as provided in subsection (4) of this section, including:**

25 **(a) Ordering the person to submit to periodic testing for use of controlled**
 26 **substances or alcohol and pay a reasonable fee, not to exceed the actual cost**
 27 **of the test and analysis, as determined by the court with the fee to be**

1 collected by the circuit clerk, held in an agency account, and disbursed, on
 2 court order, solely to the agency or agencies responsible for testing and
 3 analysis as compensation for the cost of the testing and analysis performed
 4 under this subsection. If the person is declared indigent, the testing fee shall
 5 be waived by the court. The Administrative Office of the Courts shall
 6 establish pilot projects to implement this subsection; or

7 (b) Ordering the person to use an alcohol monitoring device, as defined in KRS
 8 431.068. All costs associated with the device, including administrative and
 9 operating costs, shall be paid by the defendant. If the court determines that
 10 the defendant is indigent, and a person, county, or other organization has
 11 not agreed to pay the costs for the defendant in an attempt to reduce
 12 incarceration expenses and increase public safety, the court shall waive the
 13 costs or consider other conditions of release provided in this section.

14 ~~(3)(7)~~ A court authorizing the release of a person pursuant to this section shall cause
 15 the issuance of an appropriate order containing a statement of the conditions
 16 imposed, if any, shall cause such person to be informed of the penalties applicable
 17 to violations of the conditions of his release, and shall cause him or her to be
 18 informed that a warrant for his or her arrest will be issued immediately upon any
 19 such violation.~~;~~

20 ~~(4)(8)~~ Any conditions imposed by the court shall be the least restrictive necessary
 21 to ensure appearance in court and mitigate danger, and shall not be imposed as a
 22 means of punishment.

23 (5) A person for whom conditions of release are imposed and who after twenty-four
 24 (24) hours from the time of the imposition of said conditions continues to be
 25 detained as a result of his inability to meet the conditions of release shall, upon
 26 written application or upon the court's own motion, be entitled to have the
 27 conditions reviewed by the court which imposed them. A person who is ordered

1 released on a condition which requires that he or she return to custody after
 2 specified hours shall, upon written application or upon the court's own motion, be
 3 entitled to a review by the court which imposed the condition.~~[; or]~~

4 ~~(6)~~~~(9)~~ If at any time following release of a defendant and before he or she is required
 5 to appear for trial, the court is advised of a material change in the defendant's
 6 circumstances or that he or she has not complied with all conditions imposed upon
 7 his release, the court having jurisdiction may:

- 8 (a) Order the arrest of the defendant;
 9 (b) Enter an order requiring the defendant ~~and~~~~[;]~~ his or her surety or sureties to
 10 appear and show cause why the bail bond should not be forfeited or the
 11 conditions of his release be changed; or
 12 (c) Both.

13 A copy of ~~the~~~~[said]~~ order shall be served upon the defendant ~~and~~~~[;]~~ his or her
 14 surety or sureties. If the defendant fails to appear before the court as ordered or if,
 15 after a hearing, the court finds the conditions of release have not been complied
 16 with, the court may change the conditions imposed or forfeit the bail bond or any
 17 portion thereof and enter a judgment for the Commonwealth against the defendant
 18 and his or her surety or sureties for the amount of the bail bond or any portion
 19 thereof and cost of the proceedings.

20 **(7) Notwithstanding any other provision of the Kentucky Revised Statutes, any**
 21 **person who is denied pretrial release, or who remains in detention because he or**
 22 **she is unable to meet the conditions of pretrial release shall, unless waived by the**
 23 **defendant, have his or her case tried:**

24 **(a) If a felony offense, within one hundred eighty (180) days of his or her first**
 25 **appearance in the court in which he or she will be tried; or**

26 **(b) If a misdemeanor offense, within ninety (90) days of his or her first**
 27 **appearance in the court in which he or she will be tried.**

- 1 (8) If a person who remains in detention because he or she is unable to meet the
2 conditions of pretrial release is not brought to trial within the time frame
3 established in subsection (7) of this section, he or she shall receive a hearing
4 within 48 hours of this time frame elapsing. Following the hearing, he or she
5 shall be released unless the court finds by clear and convincing evidence that he
6 or she poses a particularized risk of imminent serious physical harm to a person
7 or persons, other than himself or herself, such that no nonfinancial conditions or
8 combination of conditions of release will reasonably address that risk.
- 9 (9) The time periods established in subsection (7) of this section may be extended
10 upon motion by the prosecution or the defense and good cause found by the
11 court. The court shall establish a revised time frame and shall state on the record
12 the reasons for extending the time period.
- 13 (10) The following time periods shall be excluded in computing the time periods
14 established in subsection (7) of this section:
- 15 (a) Prior to August 1, 2026, each day of delay resulting from the processing of
16 evidence by the Kentucky State Police forensic laboratory; and
- 17 (b) The time resulting from an examination and hearing on competency and
18 the period during which the defendant is incompetent to stand trial.
- 19 (11) If at any time following release of a defendant and before he or she is required to
20 appear for trial, the defendant is charged with a new offense that results in the
21 defendant's pretrial detention, the time calculations set forth in this section shall
22 run independently for each matter.
- 23 (12) If at any time following release of a defendant and before he or she is required to
24 appear for trial, the defendant's bond is revoked or the conditions of his or her
25 release are changed because he or she has not complied with all of the conditions
26 imposed, the time periods established in subsection (7) of this section may be:
- 27 (a) Tolloed for the duration of the defendant's pretrial release, and resume at the

1 number of days the defendant previously spent in pretrial detention; or
 2 (b) Calculated to begin the day the defendant is detained after the revocation of
 3 bond or modification of pretrial release conditions.

4 The court shall state on the record the time period established under this
 5 subsection.

6 (13) A defendant shall not remain in detention because he or she is unable to meet the
 7 conditions of pretrial release for a total period that exceeds:

8 (a) If the most serious offense charged is a misdemeanor, the maximum term
 9 of imprisonment which may be imposed for the most serious offense
 10 charged; or

11 (b) If the most serious offense charged is a felony, the minimum term of
 12 imprisonment which may be imposed for the most serious offense charged.

13 ➔ Section 3. KRS 431.530 is amended to read as follows:

14 (1) Any person who has been permitted to execute a bail bond in accordance with KRS
 15 431.520~~[(3)(b)]~~ shall deposit with the clerk of the court before which the action is
 16 pending a sum of money equal to ten percent (10%) of the bail, but in no event shall
 17 such deposit be less than ten dollars (\$10) unless the defendant earned full credit
 18 toward the applicable amount of bail pursuant to KRS 431.066, in which case the
 19 defendant shall not be required to make a deposit with the clerk of the court.

20 (2) Upon depositing said sum the defendant shall be released from custody subject to
 21 all conditions of release imposed by the court.

22 (3) Except as provided in subsection (5) of this section, if the conditions of release have
 23 been performed and the defendant has been discharged from all obligations in the
 24 action the clerk of the court shall return to the defendant, unless the court orders
 25 otherwise, ninety percent (90%) of the sum deposited and shall retain as bail costs
 26 ten percent (10%) of the amount deposited; provided, however, in no event shall the
 27 amount retained by the clerk as bail costs be less than five dollars (\$5). It is further

1 provided that the court shall order the clerk of court to pay into the public advocate
 2 special account any amount of the sum deposited by the defendant, in excess of bail
 3 costs, which in its sound discretion represents a reasonable fee for any public
 4 advocate legal or investigative services provided for the defendant under KRS
 5 Chapter 31, but in no event shall the amount so paid to the public advocate special
 6 account as public advocate legal and investigative fees be less than five dollars (\$5)
 7 per case. At the request of the defendant the court may order the amount repayable
 8 to defendant from such deposit to be paid to defendant's attorney of record.

9 (4) Except as provided in subsection (5) of this section, if a final judgment for a fine
 10 and court costs or either is entered in the prosecution of an action in which a deposit
 11 has been made in accordance with subsection (1) of this section, the balance of such
 12 deposit, after deduction of bail costs and public advocate fees as provided for in
 13 subsection (3) of this section, shall be applied to the satisfaction of the judgment.

14 (5) If the defendant has performed all conditions of release and if the defendant is
 15 found not guilty of the offense for which bail was posted, or if all charges against
 16 him relating to the offense for which bail was posted are dropped or dismissed, then
 17 all bail money deposited by the defendant or by another person on his behalf shall
 18 be returned to him with no deductions therefrom as provided in subsection (3) or (4)
 19 of this section.

20 → Section 4. KRS 431.535 is amended to read as follows:

21 (1) Any person who has been permitted to execute a bail bond in accordance with KRS
 22 431.520~~[(3)(e)]~~ may secure such bond:

23 (a) By a deposit, with the clerk of the court, of cash, or stocks and bonds in which
 24 trustees are authorized to invest funds under the laws of this Commonwealth
 25 having an unencumbered market value of not less than the amount of the bail
 26 bond; or

27 (b) By real estate situated in this Commonwealth with unencumbered equity, not

1 exempt and owned by the defendant or a surety or sureties having a fair
2 market value at least double the amount of the bail bond.

3 (2) If the bail bond is secured by stocks and bonds the defendant or the surety or
4 sureties shall file with the bond a sworn schedule which shall be approved by the
5 court and shall contain:

6 (a) A list of the stocks and bonds deposited describing each in sufficient detail
7 that they may be identified;

8 (b) The present market value of each stock and bond;

9 (c) The total market value of the stocks and bonds listed;

10 (d) A statement that the affiant or affiants is the sole owner or owners thereof and
11 that the stocks and bonds listed are not exempt from execution;

12 (e) A statement that such stocks and bonds have not previously been deposited or
13 accepted as bail in this Commonwealth during the 12 months preceding the
14 date of the bail bond; provided, however, this statement shall not be required
15 of the defendant using his own property as security; or if the surety or sureties
16 using their property as security are related to the defendant by consanguinity
17 no further removed than first cousin; or if the surety or sureties is either a
18 father-in-law, mother-in-law, son-in-law, or daughter-in-law of the defendant;
19 and

20 (f) A statement that such stocks and bonds are security for the appearance of the
21 defendant in accordance with the conditions of release imposed by the court.

22 (3) If the bail bond is secured by real estate the defendant or surety or sureties shall file
23 with the bond a sworn schedule which shall contain:

24 (a) A legal description of the real estate;

25 (b) A description of any and all encumbrances on the real estate including the
26 amount of each and the holder thereof;

27 (c) The market value of the unencumbered equity owned by the affiant or affiants;

- 1 (d) A statement that the affiant is the sole owner, or in the case of jointly owned
2 real estate, that affiants are the sole owners of such unencumbered equity and
3 that it is not exempt from execution;
- 4 (e) A statement that the real estate has not previously been used or accepted as
5 bail in this Commonwealth during the 12 months preceding the date of the
6 bail bond; provided, however, this statement shall not be required of the
7 defendant using his own property as security; or if the surety or sureties using
8 their property as security are related to the defendant by consanguinity no
9 further removed than first cousin; or if the surety or sureties is either a father-
10 in-law, mother-in-law, son-in-law or daughter-in-law of the defendant; and
- 11 (f) A statement that the real estate is security for the appearance of the defendant
12 in accordance with the conditions of release imposed by the court.
- 13 (4) The sworn schedule shall constitute a material part of the bail bond. An affiant shall
14 be subject to penalty of perjury if in the sworn schedule he makes a false statement
15 which he does not believe to be true.
- 16 (5) A certified copy of the bail bond and schedule of real estate accompanied by the
17 necessary recording fee which shall be paid by the affiant or affiants shall be filed
18 immediately by the clerk of the court requiring the bail bond in the office of the
19 county clerk of the county in which the real estate is situated. The county clerk
20 shall record such copies of said bail bonds and schedule and the Commonwealth
21 shall have a lien upon such real estate from the date and time of such recordation.
22 The instruments described herein shall be recorded in the miscellaneous
23 encumbrances book provided by the county clerk.
- 24 (6) If the conditions of release imposed by the court have been performed and the
25 defendant has been discharged from all obligations in the action, the clerk of the
26 court shall return to him or his sureties the deposit of any cash, stocks or bonds. If
27 the bail bond has been secured by real estate, the clerk of the court requiring the bail

1 bond shall forthwith notify in writing the county clerk of the county where the real
2 estate is situated and the lien on the real estate shall be discharged and the release
3 thereof recorded in the margin.