

1 AN ACT relating to crimes and punishments.

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

3 ➡ Section 1. KRS 439.3406 is amended to read as follows:

- 4 (1) The board shall order mandatory reentry supervision six (6) months prior to the
5 projected completion date of an inmate's sentence for an inmate who has not been
6 granted discretionary parole.
- 7 (2) ~~[(The provisions of subsection (1) of)]~~ This section shall not apply to an inmate who:
8 (a) Is not eligible for parole by statute;
9 (b) Has been convicted of a capital offense or a Class A felony;
10 (c) **Has previously been convicted of two (2) or more offenses that would**
11 **classify him or her as a violent offender under KRS 439.3401;**
12 **(d)** Has a maximum or close security classification as defined by administrative
13 regulations promulgated by the department;
14 **(e)**~~[(d)]~~ Has been sentenced to two (2) years or less of incarceration;
15 **(f)**~~[(e)]~~ Is subject to the provisions of KRS 532.043;
16 **(g)**~~[(f)]~~ Has six (6) months or less to be served after his or her sentencing by a
17 court~~[or commitment to prison for a violation of probation, shock~~
18 ~~probation, parole, or conditional discharge];~~
19 **(h)**~~[(g)]~~ **Has been**~~[(f)]~~ recommitted to prison for a violation of probation, shock
20 probation, parole, or conditional discharge~~[, has not served at least six (6)~~
21 ~~months since being recommitted];~~ or
22 **(i)**~~[(h)]~~ Has twice been released on mandatory reentry supervision.
- 23 (3) An inmate granted mandatory reentry supervision pursuant to this section may be
24 returned by the board to prison for violation of the conditions of supervision and
25 shall not again be eligible for mandatory reentry supervision during the same period
26 of incarceration.
- 27 (4) An inmate released to mandatory reentry supervision shall be considered to be

1 released on parole.

2 (5) Mandatory reentry supervision is not a commutation of sentence or any other form
3 of clemency.

4 (6) ~~A[No]~~ hearing shall ***not*** be required for the board to order an inmate to mandatory
5 reentry supervision pursuant to subsection (1) of this section. Terms of supervision
6 for inmates released on mandatory reentry supervision shall be established as
7 follows:

8 (a) ***1.*** The board shall ~~*promulgate*~~~~[adopt]~~ administrative regulations ***in***
9 ***accordance with KRS Chapter 13A*** establishing general conditions
10 applicable to each inmate ordered to mandatory reentry supervision
11 pursuant to subsection (1) of this section.

12 ***2.*** If an inmate is ordered to mandatory reentry supervision, the board's
13 order shall:

14 ***a.*** Set forth the general conditions; and~~[shall]~~

15 ***b.*** Require the inmate to comply with the general conditions and any
16 requirements imposed by the department in accordance with this
17 section;

18 (b) Upon intake of an inmate ordered to mandatory reentry supervision by the
19 board, the department shall use the results of the risk and needs assessment
20 administered pursuant to KRS 439.3104(1) to establish appropriate terms and
21 conditions of supervision, taking into consideration the level of risk to public
22 safety, criminal risk factors, and the need for treatment and other
23 interventions. The terms and conditions imposed by the department under this
24 paragraph shall not conflict with the general conditions adopted by the board
25 pursuant to paragraph (a) of this subsection; and

26 (c) The powers and duties assigned to the commissioner in relation to probation
27 or parole under KRS 439.470 shall be assigned to the commissioner in

1 relation to mandatory reentry supervision.

2 (7) Subject to subsection (3) of this section, the period of mandatory reentry
3 supervision shall conclude upon completion of the individual's minimum expiration
4 of sentence.

5 (8) If the board issues a warrant for the arrest of an inmate for absconding from
6 supervision during the mandatory reentry supervision period, and the inmate is
7 subsequently returned to prison as a violator of conditions of supervision for
8 absconding, the inmate shall not receive credit toward the remainder of his or her
9 sentence for the time spent absconding.

10 (9) The department shall report the results of the mandatory reentry supervision
11 program to the Legislative Research Commission for referral to the Interim Joint
12 Committee on Judiciary or the Senate and House Standing Committees on
13 Judiciary, as appropriate, by February 1 of each year~~[, 2015]~~.

14 ➡ Section 2. KRS 504.020 is amended to read as follows:

15 (1) A person is not responsible for criminal conduct if at the time of ~~the~~^{such} conduct,
16 as a result of mental illness or intellectual disability, he or she lacks substantial
17 capacity ~~[either]~~ to appreciate the nature and quality of~~[criminality of]~~ his or her
18 conduct~~[or to conform his conduct to the requirements of law]~~.

19 (2) As used in this chapter, the term "mental illness or intellectual disability" does not
20 include an abnormality manifested only by repeated criminal or otherwise antisocial
21 conduct.

22 (3) A defendant may prove mental illness or intellectual disability, as used in this
23 section, in exculpation of criminal conduct.

24 ➡ Section 3. KRS 504.060 is amended to read as follows:

25 As used in this chapter, unless the context otherwise requires:

26 (1) "Department" means the Department of Corrections;

27 (2) "Examiner" means a psychologist or psychiatrist who examines, treats, or reports

- 1 on a defendant's mental condition as required by this chapter;
- 2 (3) "Forensic psychiatric facility" means a mental institution or facility, or part thereof,
 3 designated by the secretary for the purpose and function of providing inpatient
 4 evaluation, care, and treatment for ~~mentally ill persons or~~ individuals with an
 5 intellectual disability **or a mental illness** who have been charged with or convicted
 6 of a felony;
- 7 (4) "Foreseeable future" means not more than three hundred sixty (360) days;
- 8 (5) "Incompetency to stand trial" means, as a result of mental condition, lack of
 9 capacity to appreciate the nature and consequences of the proceedings against one
 10 or to participate rationally in one's own defense;
- 11 (6) "Individual with an intellectual disability" means an individual with significantly
 12 subaverage general intellectual functioning existing concurrently with deficits in
 13 adaptive behavior and manifested during the developmental period and is a
 14 condition which may exist concurrently with mental illness or insanity;
- 15 (7) "Insanity" means, as a result of mental **illness or intellectual disability**~~condition~~,
 16 lack of substantial capacity ~~either~~ to appreciate the **nature and**
 17 **quality**~~criminality~~ of one's conduct~~or to conform one's conduct to the~~
 18 ~~requirements of law~~;
- 19 (8) "Mental illness" means substantially impaired capacity to use self-control,
 20 judgment, or discretion in the conduct of one's affairs and social relations,
 21 associated with maladaptive behavior or recognized emotional symptoms where
 22 impaired capacity, maladaptive behavior, or emotional symptoms can be related to
 23 physiological, psychological, or social factors;
- 24 (9) "Psychiatrist" means a physician licensed pursuant to KRS Chapter 311 who is
 25 certified or eligible to apply for certification by the American Board of Psychiatry
 26 and Neurology, Inc.;
- 27 (10) "Psychologist" means a person licensed at the doctoral level pursuant to KRS

1 Chapter 319 who has been designated by the Kentucky Board of Examiners of
2 Psychology as competent to perform examinations;

3 (11) "Secretary" means the secretary of the Cabinet for Health and Family Services;

4 (12) "Treatment":

5 **(a)** Means medication or counseling, therapy, psychotherapy, and other
6 professional services provided by or at the direction of psychologists or
7 psychiatrists; ~~**and** ["Treatment"]~~

8 **(b)** Shall not include electroshock therapy or psychosurgery; and

9 (13) "Treatment facility" means an institution or part thereof, approved by the Cabinet
10 for Health and Family Services, which provides evaluation, care, and treatment for
11 insane or ~~mentally ill persons or~~ individuals with an intellectual disability **or a**
12 **mental illness** on an inpatient or outpatient basis.

13 ➡ Section 4. KRS 504.120 is amended to read as follows:

14 **(1) Except as provided in subsection (2) of this section,** in cases in which the
15 defendant provides evidence at trial of his **or her** mental illness or insanity at the
16 time of the offense, the jury or court may find the defendant:

17 ~~**(a)** [(1)]~~ Guilty;

18 ~~**(b)** [(2)]~~ Not guilty;

19 ~~**(c)** [(3)]~~ Not guilty by reason of insanity at the time of the offense; or

20 ~~**(d)** [(4)]~~ Guilty but mentally ill at the time of the offense.

21 **(2) A jury or court shall not return a verdict that finds the defendant:**

22 **(a) For one (1) count, not guilty by reason of insanity at the time of the offense;**
23 **and**

24 **(b) For any other count arising out of a single course of conduct and tried**
25 **during the same trial, guilty or guilty but mentally ill at the time of the**
26 **offense.**

27 **(3) The court shall instruct the jury on the prohibition established in subsection (2)**

1 **of this section.**

2 ➔ Section 5. KRS 504.150 is amended to read as follows:

3 (1) **(a)** The court shall sentence a defendant found guilty but mentally ill at the time
4 of the offense to the local jail or to the department~~{ of Corrections }~~ in the
5 same manner as a defendant found guilty.

6 **(b)** If the defendant is found guilty but mentally ill, treatment shall be provided
7 the defendant until the treating professional determines that the treatment is
8 no longer necessary or until expiration of his **or her** sentence, whichever
9 occurs first.

10 **(c) If the treating professional determines that treatment is still necessary upon**
11 **expiration of the defendant's sentence, the treating professional or the**
12 **Commonwealth shall petition the sentencing court for:**

- 13 **1. Involuntary hospitalization or admission under KRS Chapter 202A or**
14 **202B; or**
- 15 **2. Court-ordered community-based outpatient treatment under KRS**
16 **202A.081.**

17 (2) Treatment shall be a condition of probation, shock probation, conditional discharge,
18 parole, or conditional release so long as the defendant requires treatment for his **or**
19 **her** mental illness in the opinion of his **or her** treating professional.

20 ➔ Section 6. This Act may be cited as Logan's Law.