



**KENTUCKY JUSTICE &  
PUBLIC SAFETY CABINET**

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**Education Good Time Credit Program**

*IJC on Judiciary*

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## Department of Corrections – Education Good Time Credit Program

One of the goals associated with incarceration is rehabilitating the justice-involved population by offering educational programming to ease their transition from incarceration back into society. The Education Good Time Credit program is an important part of this effort and also shortens the period of incarceration, thereby decreasing the cost associated with an individual's incarceration.

## Timeline of statute and amendments:

**2006** – General Assembly passed the original statute outlining the Education Good Time Credit program. No funding was provided for implementation.

KRS 197.045: DOC shall provide 60 days credit for:

- GED or high school diploma
- 2 or 4 year college degree
- 2 or 4 year certification in applied sciences
- Technical education diploma as defined by DOC
- May earn additional credit for each program completed

**2010** – House Bill 463 passed changing the landscape of the statute governing the program. One change was transferring the operations of the program from the Kentucky Community Technical College System to DOC. No funding was provided for implementation.

## Timeline of statute and amendments:

**2010 – 2019** – Original statute amended 6 times, almost yearly, without any additional funding appropriations for DOC. These constant changes to the statute created confusion.

July 15, 2010 – June 7, 2011

June 8, 2011 – July 11, 2012

July 12, 2012 – June 24, 2013

June 25, 2013 – July 14, 2014

June 29, 2017 – June 26, 2019

June 27, 2019 – present

## Timeline of statute and amendments:

Due to the proliferations of changes to KRS 197.045, DOC did not realize the full complexity of the problem for the following reasons:

- The number of approved course providers multiplied.
- Unknown to DOC, county jails were offering different courses and programs than state prisons.
- The credits earned by individuals serving time in county jails and community providers (halfway houses, community SAP providers, etc.) were not always being reported or reported accurately to DOC.

## Timeline of litigation:

**September 2012** – The Education Good Time Credit program litigation was filed in Franklin Circuit Court.

**June 2015** – Franklin Circuit Court: (1) found DOC's administration of KRS 197.045 to be arbitrary and capricious and violated due process; (2) certified class of inmates who sought an award of sentence credits under KRS 197.045 since 2007 (5 years before the Complaint was filed: and found that inmates were entitled to retroactive sentence credits.

*The matter was referred to a mediator to address injunctive relief.*

**November 2017** – Franklin Circuit Court ordered the appointment of an independent auditor at the expense of the Commonwealth to determine which inmates took education programs and what credits they were awarded.

**December 2017** – Defendants removed the case to federal court.

## Timeline of litigation:

**September 2018** – Federal court ordered DOC to enter into a contract with an independent auditor within 30 days or face a daily fine of \$1,000. If after 60 days, there was still no independent auditor, the fine would increase to \$5,000 per day.

**October 2018** – DOC notified the court that the Department had entered into a contract with KPMG LLP.

**October 2018** – Judge Van Tatenhove appointed KPMG the independent auditor and required that DOC pay the full cost of the audit.

## Current Administration Actions:

**Close the class** – Change practices so that additional inmates do not continue to be added to the case as plaintiffs

**Mitigate damages** – Award credits to inmates who are incarcerated

**Negotiate resolution with plaintiffs**

**Defend case in litigation**



## Current Administration Actions:

*The following steps have been implemented in an attempt to limit any additional damages sought by the plaintiffs during this litigation:*

- **December 2020** – DOC completed the revised course catalogue.
- **January 2021** – DOC sought and received court approval for implementation of the revised course catalogue.
- **February 2021** – DOC launched the revised course catalogue at all 14 state prisons, Reentry Service Centers, Recovery Kentucky Center and Probation & Parole Districts.
- **Present** – Jails have received a copy of the revised course catalog and are beginning to implement.
- **May 2021** – Filed a Motion for Summary Judgment

## Results of audit and negotiations with plaintiffs:

- **2,400 additional credit awards** have been identified representing **922,260 days** of educational good time credit.
- Per calculations conducted by KPMG, this represents a **potential savings of \$28 – 70 million** for the Commonwealth.

## Status of KPMG Audit:

### *Under a court order to pay the cost of the audit*

- 14 years' worth of review effort done in a 2.5 year period, with nearly 2 million records reviewed by KPMG.
- KPMG has received all records that need to be reviewed through February 2021, with the exception of a couple of small institutions which are under a court order to comply with subpoenas.
- KPMG anticipates completing the audit this summer.
- The Cabinet and DOC continue to comply with court orders and are awaiting the completed KPMG report to arrive later this year.



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