



KENTUCKY COURT OF JUSTICE

SB 90 Implementation Efforts

Katie Comstock, Director
Administrative Office of the Courts (AOC)

Angela Darcy, Executive Officer
Jason Dufek, Manager
AOC's Department of Pretrial Services



Content

- Overview of Senate Bill 90
- Implementation efforts
- Senate Bill 90 in action
- Barriers
- Success stories



Senate Bill (SB) 90 Overview

This legislation provides an alternative to incarceration by allowing eligible defendants to receive treatment for substance use and/or behavioral health disorder.

Under this legislation, eligible defendants must be assessed as soon as possible (but within at least 72 hours) by a mental health specialist.

The program's goal is to divert defendants charged with certain **non-violent, non-sexual misdemeanors** and **Class D felonies** away from jail and into treatment for substance-use disorder(s) and/or mental-health issues.



Eligibility Criteria

- Kentucky resident and at least 18 years of age.
- Charged with a qualifying offense. (*Exclusions: violent offender, sex offense, DUI, domestic violence, or protective orders against victim*).
- Doesn't have a previous conviction for Class A, B, or C felony, or a Class D felony or misdemeanor that is not a qualifying offense;
- Assessed by Pretrial Services as low-risk for failure to appear, low-risk for new criminal activity; or prosecutor or defense attorney identifies defendant as a viable participant; and
- Clinical assessment determines defendant has a substance use and/or mental health disorder.



Behavioral Health Conditional Dismissal Program (BHCDP) Overview

If the defendant is determined to be eligible for the Behavioral Health Conditional Dismissal Program, the prosecutor can enter into an agreement with the defendant to participate.

The program provides an array of services such as outpatient or inpatient treatment, cognitive and behavioral therapies, education, vocational services, and housing assistance.

BHCDP is funded as follows:

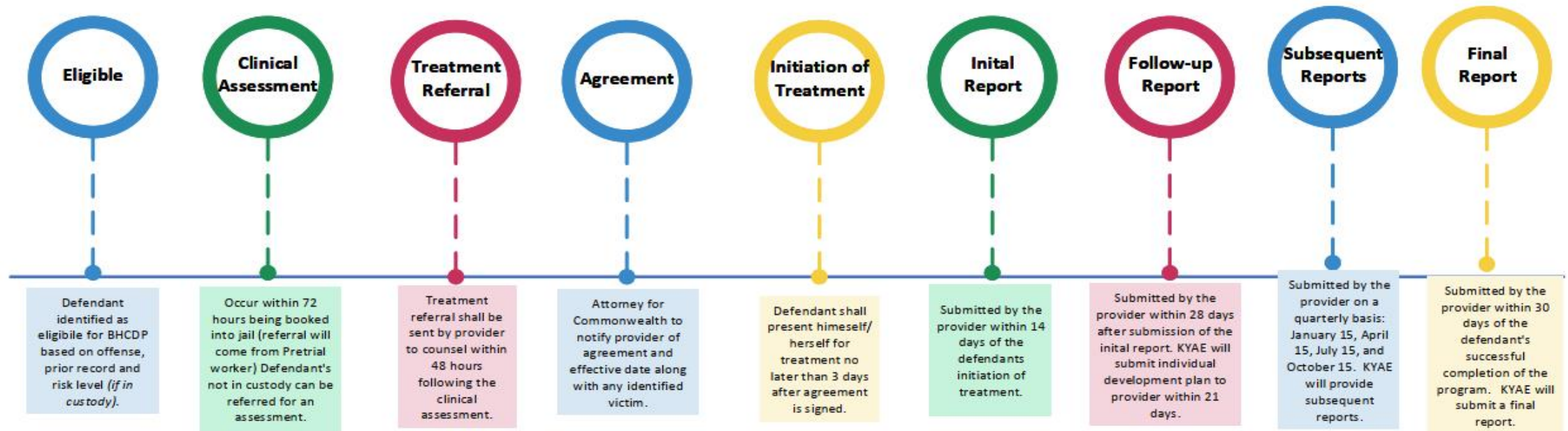
- Defendant's current health insurance (including Medicaid); or
- If uninsured, the Opioid Abatement Trust Fund - administered by the Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID).



KENTUCKY COURT OF JUSTICE

Senate Bill 90 BEHAVIORAL HEALTH CONDITIONAL DISMISSAL PROGRAM

Timeline for Eligible Defendant Willing to Participate





SB 90 Pilot Sites

- Christian – Live 9/1/23
- Clark – Live 7/16/23
- Daviess*
- Greenup*
- Hopkins – Live 9/1/23
- Kenton*
- Letcher – Live 1/1/23
- Madison – Live 7/16/23
- McCracken – Live 12/1/23
- Oldham – Live 10/1/23
- Pulaski – Live 9/1/23

*Case Navigator positions are currently being interviewed/
onboarded for these counties.



Data Collection

- SB 90 requires treatment providers and County or Commonwealth Attorneys to collect data regarding the defendant's participation in the program and report the data to AOC.
- Data will be collected via a 14-day report, 42-day report, quarterly report, and final report.
- Examples of data collected: # of participants eligible; # of clinical assessments; # of participants; # discharged for noncompliance or successful completion; # of victims that agreed or disagreed with program; etc.



Implementation

IDENTIFYING KEY STAKEHOLDERS

- SB 90 Implementation Council
- Workgroups
- Stakeholder meetings

MAPPING

- Sequential Intercept Mapping
 - Touch Points
- Data Points
- Action planning



Community Forums

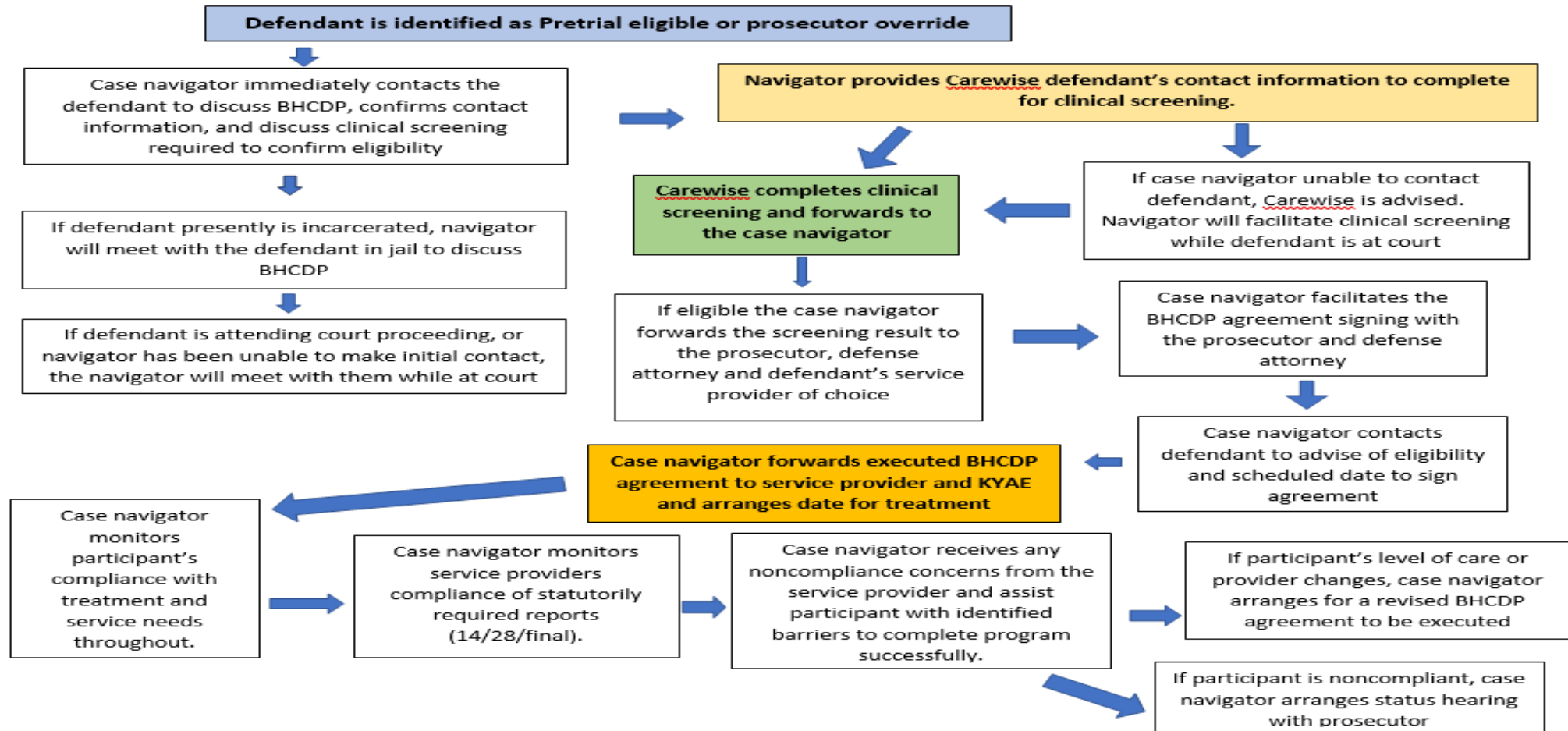


- In collaboration with DBHDID, the AOC hosted local community forums in all 11 pilot sites.
- All local stakeholders were invited:
 - Judges, prosecutors, public defenders, clerks, law enforcement, jail staff, adult education, treatment providers
- Forums provided an opportunity for stakeholders to express concerns.
- Forums were followed by one-on-one meetings with key stakeholders in pilot counties.



KENTUCKY COURT OF JUSTICE

Behavior Health Conditional Dismissal Program (BHCDP) Current process






KENTUCKY COURT OF JUSTICE

Process and Practice Changes

- Form creation
 - Pretrial Eligibility screening
 - Agreement
 - 14-day, 42-day, quarterly reports, and final reports for treatment providers and prosecutors
- Existing staff training
 - Pretrial Specialists
 - Risk Assessment Specialists
- Case Navigators
- Establishing local procedures

BHCDP-EFCS REV 01/2023 Commonwealth of Kentucky Court of Justice KRS 533.272(3)(b)		 PRETRIAL ELIGIBILITY FOR CONSIDERATION FOR BEHAVIORAL HEALTH CONDITIONAL DISMISSAL PROGRAM (BHCDP) SCREENING		INTERVIEW #: _____ BOOKING DATE/TIME: _____ RAS: _____		
Defendant Name: First Middle Last MINNIE MOUSE						
Sex	Race	Ethnicity	Birthdate	Social Security #	Drivers License #	State
Phone Number <input type="checkbox"/> Cell/Text <input type="checkbox"/> Landline			eMail			
Charging County: _____			Holding County: _____			
FTA Risk Level: MOD			NCA Risk Level: MOD			
Current Charges						
YES NO UNK						
<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> 1. Is the defendant a Kentucky resident?						
<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> 2. Is the defendant charged with a Class A, B, or C felony?						
<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> 3. Is the defendant charged with an offense that would qualify as a violent offender under KRS 439.3401?						
<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> 4. Is the defendant charged with DUI offense under KRS 189A.010?						
<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> 5. Is the offense an act of domestic violence or abuse KRS 403.720 or an act of dating violence and abuse as defined KRS 456.010?						
6. Is the defendant charged with a sex crime as defined below:						
<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> a. A felony under KRS 710, 729.100 or 729.110 involving commercial sexual activity, 730.020, 730.064(1)(a), 731.310, 731.320, or 731.335;						
<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> b. A felony attempt to commit a felony offense specified in question a above.						
Criminal History						
<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> 7. Does the defendant have prior convictions of a Class A, B, or C felony?						
<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> 8. Does the defendant have prior convictions that would qualify as a violent offender under KRS 439.3401?						
<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> 9. Does the defendant have a prior DUI conviction under KRS 189A.010?						
<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> 10. Does the defendant have a conviction of an act of domestic violence or abuse KRS 403.720 or dating violence and abuse KRS 456.010?						
<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> 11. Does the defendant have a prior conviction of a sex crime as defined below:						
<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> a. A felony under KRS 710, 729.100 or 729.110 involving commercial sexual activity, 730.020, 730.064(1)(a), 731.310, 731.320, or 731.335;						
<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> b. A felony attempt to commit a felony offense specified in question a above.						
<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> c. A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection.						
Based upon the above screening conducted by a representative of Pretrial Services it is determined that the above named defendant: *Pretrial Services is unable to determine if the offense is against a victim who has a protective order under KRS 456.060 or 508.130B.*						
<input checked="" type="checkbox"/> Is not eligible for participation in the BHCDP based on offense and criminal history.						
<input type="checkbox"/> Is eligible for participation in the BHCDP based on offense and criminal history and should be referred to a Qualified Mental Health Professional for assessment.						
Referral email sent to: _____						
on: _____ at: _____						
Copies: <input type="checkbox"/> MH/UD Triage <input type="checkbox"/> Prosecutor <input type="checkbox"/> DPA						
					Comment: _____ _____ _____	



KENTUCKY COURT OF JUSTICE

Implementation Council

Meets quarterly at the AOC to assist with implementation:

2022: August 11, October 26, and November 30

2023: February 17, May 24, September 14, and November 15 (upcoming)

- ─ Chair: Executive Director of the Office of Drug Control Policy
- ─ Director of Administrative Office of the Courts
- ─ Commissioner of the Department of Behavioral Health & Intellectual Disabilities
- ─ Commissioner of the Office of Medicaid
- ─ Public Advocate
- ─ Executive Director of Jailer's Assoc.
- ─ Member of Commonwealth's Attorney Assoc.
- ─ Member of County Attorney's Assoc.
- ─ Circuit Court Judge
- ─ District Court Judge
- ─ Executive Director Office of Adult Education
- ─ Two representatives selected by the Kentucky Assoc. of Regional Programs (one in substance abuse recovery and one in mental health disorder treatment)



SB 90 in Action

Currently, BHCDP is live in seven counties: Letcher, Madison, Clark, Pulaski, Hopkins, Christian, and Oldham.

There have been 1000+ of pretrial eligible defendants since Jan 1 (for all 11 pilot counties).

Over 150 of defendants have voluntarily agreed to complete the clinical assessment.

As of 10/15:

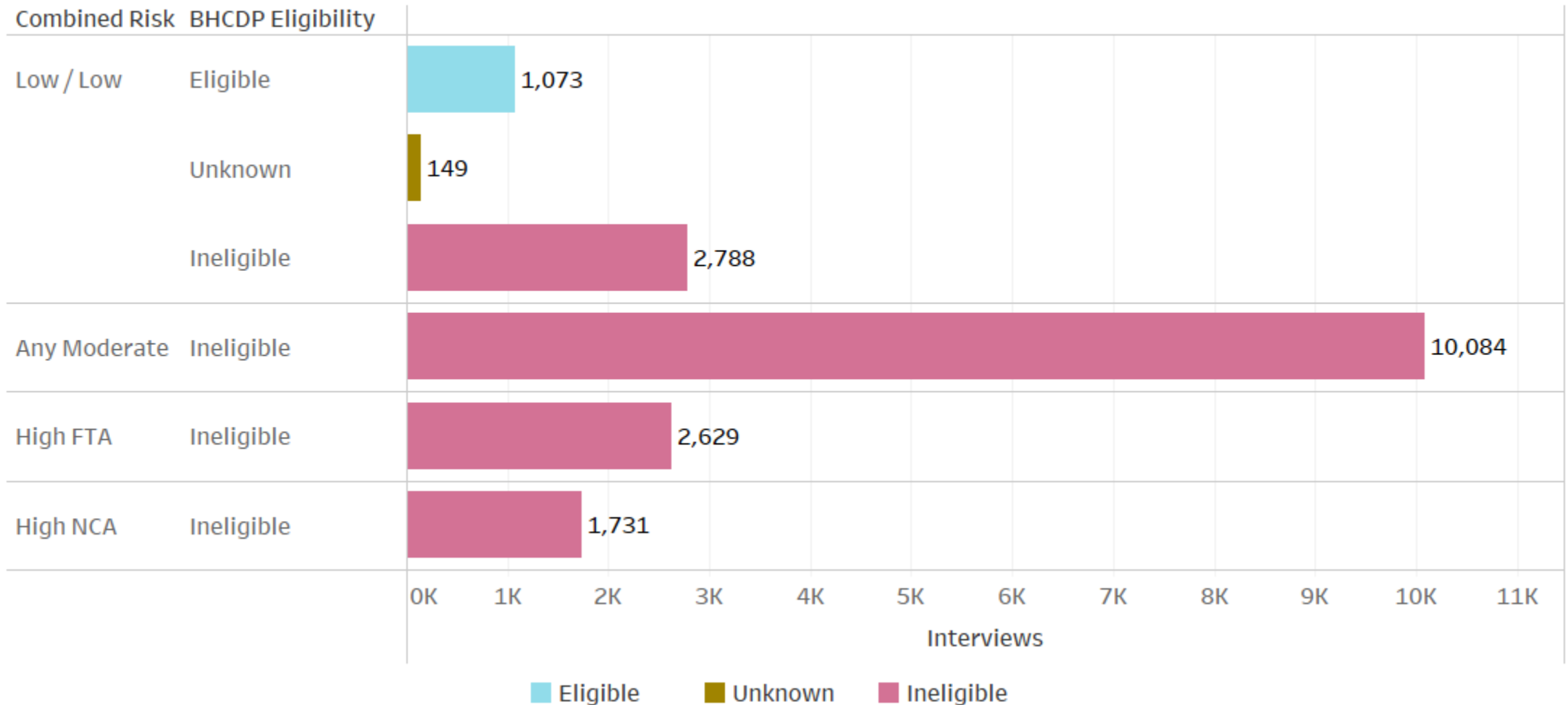
- 140 agreements have been signed.
- 13 participants have successfully completed BHCDP. 😊
- 2 participants voluntarily withdrew from BHCDP.
- 8 participants have been dismissed from BHCDP due to non-compliance.
- 23 agreements waiting to be signed.
- 57 defendants were denied entry into BHCDP due to prosecutor denial.



KENTUCKY COURT OF JUSTICE

BHCDP Eligibility

Interviews Receiving BHCDP Eligibility Assessment Since 1/2/2023

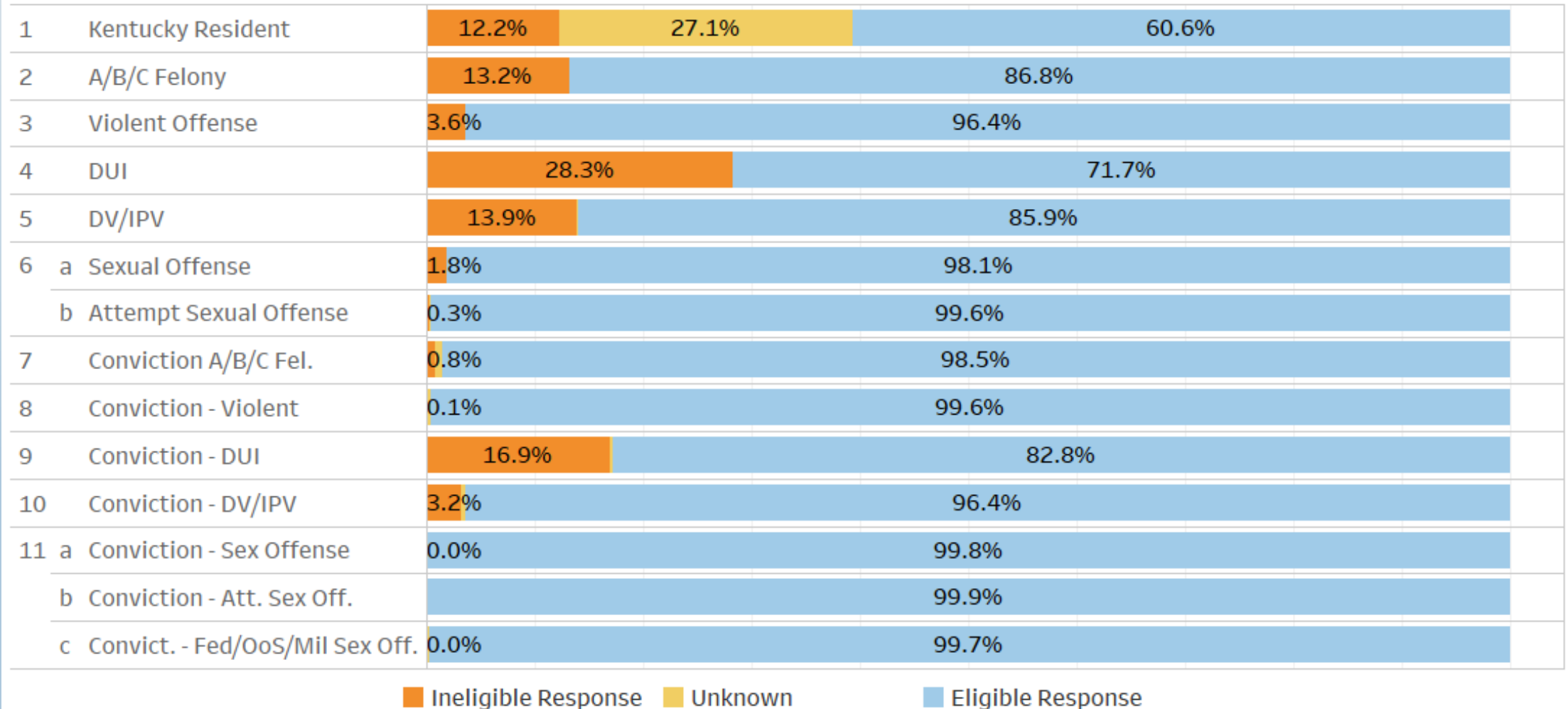




KENTUCKY COURT OF JUSTICE

Eligibility Factors

Interviews Assessed PSA Low/Low Receiving BHCDP Eligibility Assessment Since 1/2/2023

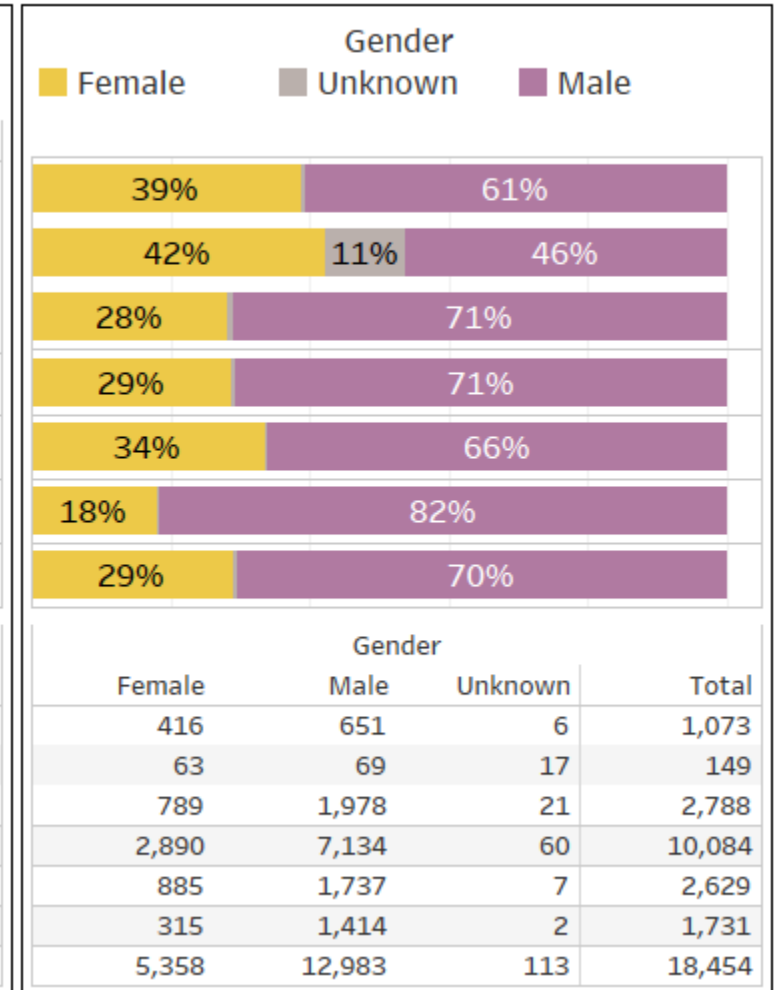
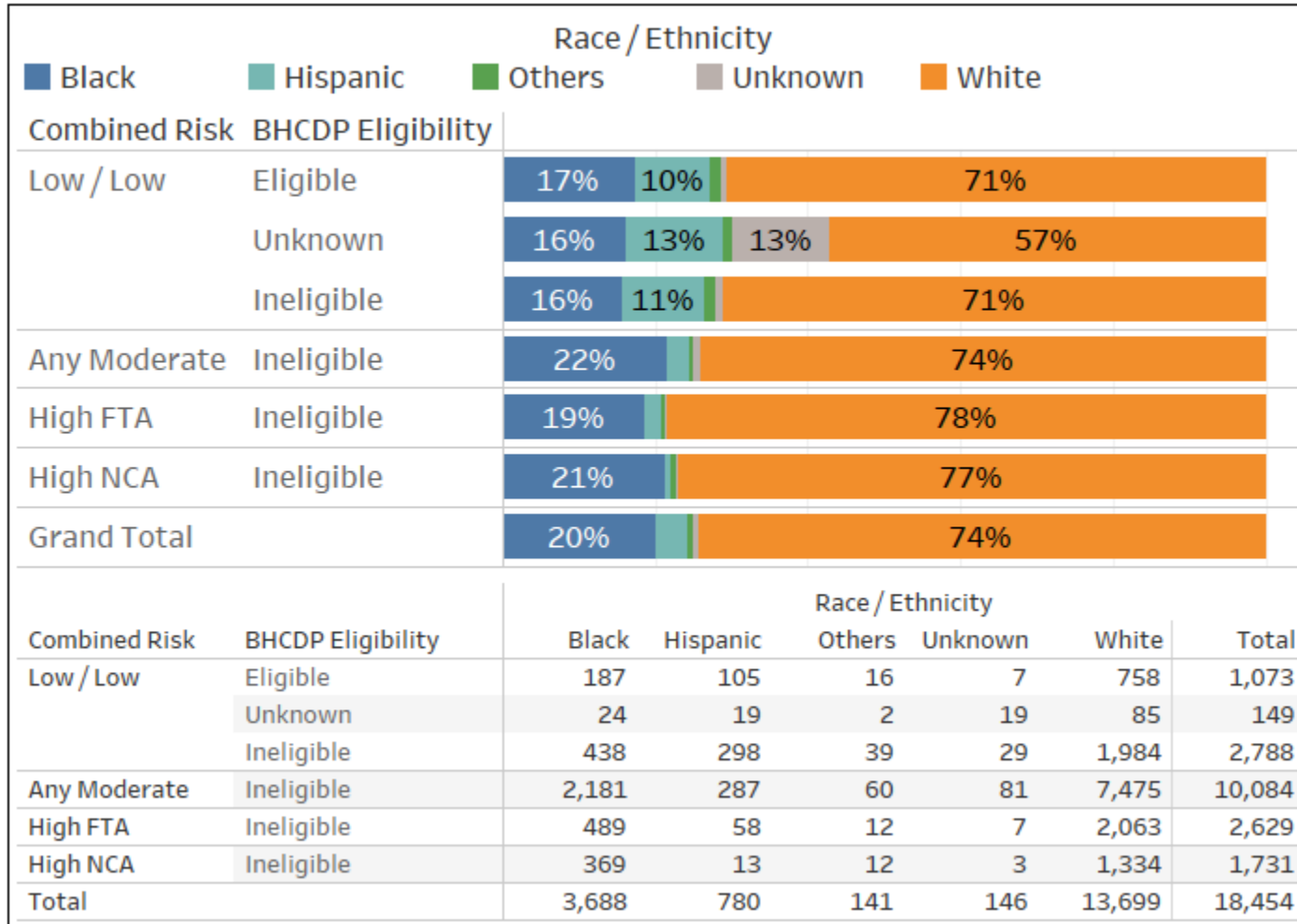




KENTUCKY COURT OF JUSTICE

Received BHCDP Eligibility Assessment

Interviews Receiving BHCDP Eligibility Assessment Since 1/2/2023

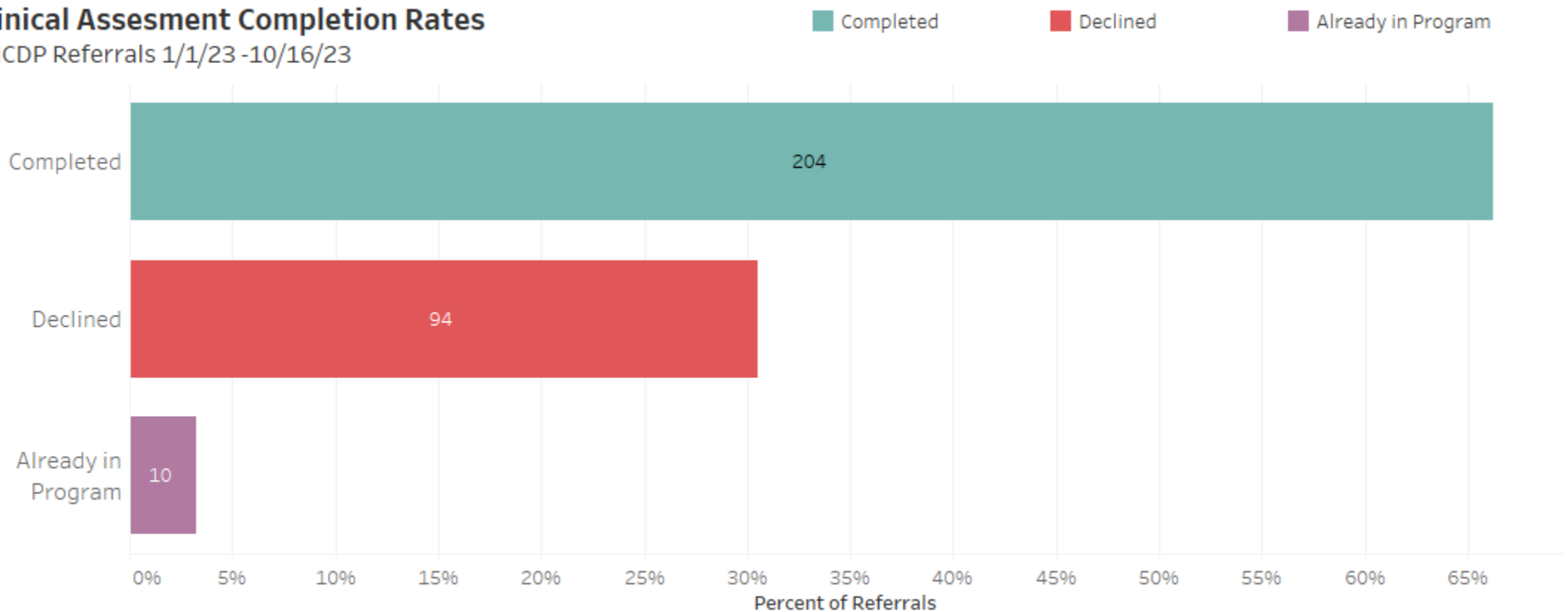




Clinical Assessment Completion

Clinical Assessment Completion Rates

BHCDP Referrals 1/1/23 -10/16/23



*** Excludes participants eligible prior to launch in their counties who have not completed or declined to complete the clinical assessment, and/or whose case was disposed prior to assessment.***

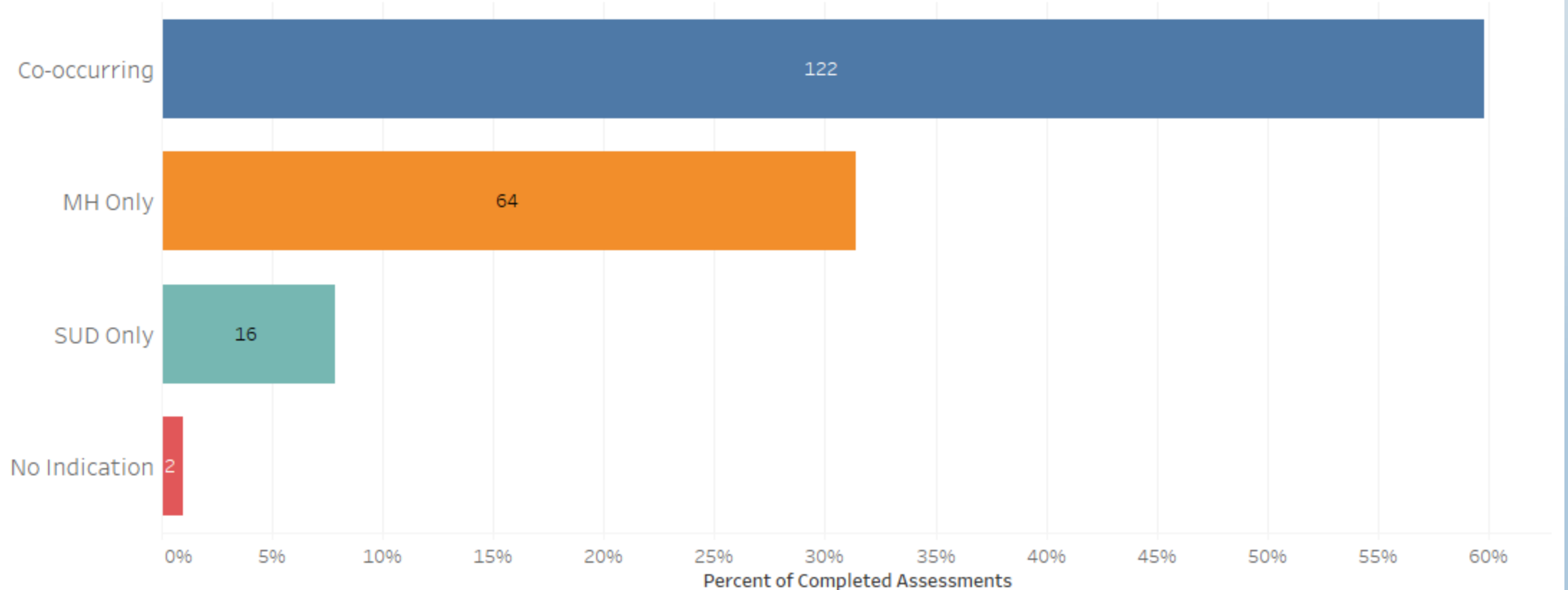


Clinical Assessment Results

Clinical Assessment Results

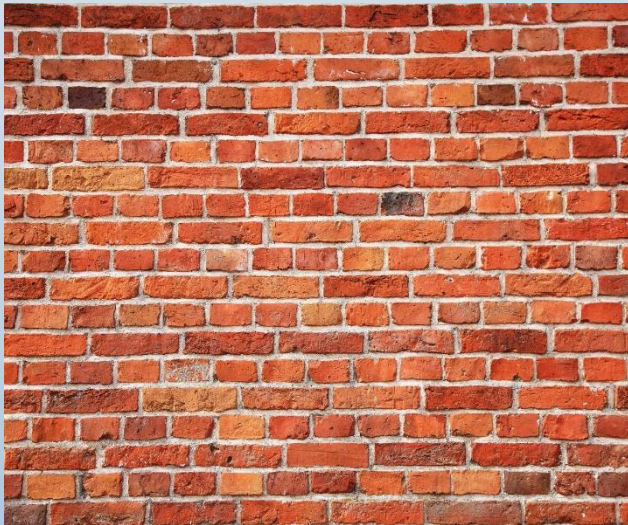
Completed Assessments 1/1/23 - 10/16/23

■ Co-occurring ■ MH Only ■ SUD Only ■ No Indication





Implementation Barriers



- Hesitation from stakeholders
- Role clarification from partners and providers
- Eligibility criteria
- Finding qualified mental health providers in pilot sites
- Transportation in rural communities



Implementation Successes

- Collaboration between Judicial, Legislative, and Executive Branch partners. Biweekly meetings with DBHDID and Kentucky Adult Education.
- Local community resources have generously provided services to participants and recovery housing is continuing to expand opportunities:
 - Eastern Kentucky Concentrated Employment Program (EKCEP) has provided training and supplies for participants in program.
 - Letcher housing partners provided shelter for unhoused participant.
- Individual success stories:
 - One participant charged with flagrant nonsupport has completed lineman school and gained custody of his child.
 - One participant suffering from substance use disorder has completed treatment and is now on the path to getting her CNA.



KENTUCKY COURT OF JUSTICE

Questions?



KENTUCKY COURT OF JUSTICE

**For additional information,
please feel free to contact:**

Angela Darcy

AngelaDarcy@KyCourts.net

Jason Dufleck

JasonDufleck@KyCourts.net



Disclaimer

Information received from KYCourts/CourtNet is subject to change(s), reprogramming, modification(s) of format and availability at the direction of the Administrative Office of the Courts (AOC), and may not at any particular moment reflect the true status of court cases due to ordinary limitation(s), delay(s) or error(s) in the system's operation. The KYCourts/CourtNet database is not a real-time system. All datasets are a snapshot of case data at the time a query is run. Case counts are not counts of individuals as some persons may have multiple cases.

The AOC disclaims any warranties as to the validity of the information obtained from KYCourts/CourtNet. The recipient is solely responsible for verifying information received from KYCourts/CourtNet through the cross-referencing of official court records. The AOC shall not be liable to the recipient, or to any third party using the system or information obtained therefrom, for any damages whatsoever arising out of the use of KYCourts/CourtNet.