

CHAPTER 384

(HB 533)

AN ACT relating to crimes and punishment.

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

Section 1. KRS 441.125 is amended to read as follows:

- (1) ***(a) As used in this section, "community-service-related project" means a project involving work for:***
 1. ***The Commonwealth or an agency of the Commonwealth;***
 2. ***A county, urban-county, charter county, city, special district, or an agency of any of these entities; or***
 3. ***A nonreligious-sponsored nonprofit, charitable, or service organization.***
- (b) Work on a community-service-related project shall not confer private benefit on a person except as may be incidental to the public benefit***~~[As used in this section community service related project means work for a county, a city or a special district or an agency thereof. Prisoner work on community service related projects shall not confer a private benefit on a person except as may be incidental to the public benefit].~~
- (2) ***Each jailer shall write a policy governing prisoners working on community-service-related projects, which shall be submitted to the fiscal court for approval. The written policy shall state at a minimum:***
 - (a) ***Which type of prisoner, if any, shall be assigned to which type of work, taking into account the physical and mental abilities of prisoners and security of the jail and the general public;***
 - (b) ***That no prisoner shall be assigned to unduly hazardous work that would endanger the life or health of the prisoner or others; and***
 - (c) ***That any prisoner may, for a valid medical reason, decline to work on community-service-related projects. No prisoner shall be punished or otherwise penalized for this refusal***~~[Pursuant to a written policy adopted by the fiscal court on the advice of the jailer, the jailer may permit certain prisoners to work on community service related projects. Before a prisoner is permitted to work in this type project, the county judge/executive or his designee shall sign his approval to the prisoner's participation].~~
- (3) ***A prisoner shall not begin work on a particular community-service-related project without the approval of the director of the relevant entity referred to in subsection (1)(a) of this section, or the director's designee***~~[In determining which prisoners may be worked on community service related projects and the nature of work to which a prisoner may be assigned, the jailer and the county judge/executive shall consider the physical and mental ability of the prisoner and the security of the jail and the general public. No prisoner shall be assigned to unduly hazardous work that would endanger the life or health of the prisoner or others].~~
- (4) ***Participation in community-service-related projects shall not be deemed employment for any purpose, and a prisoner shall not be deemed an employee or agent of the entity for***

~~*which he or she performs the community service work*~~ Any prisoner may, for a valid medical reason, decline to work on community service related projects. No prisoner shall be punished or otherwise penalized for such refusal.

- (5) ~~The place of working such prisoners shall be determined by the county judge/executive and he shall enter an order on the order book of the county judge/executive, specifying the manner in which the prisoner may be worked.~~
- (6) ~~Participation in community services related projects shall not be deemed employment for any purpose.~~

Section 2. KRS 441.510 is amended to read as follows:

- (1) If an accused is confined in a detention facility, he shall be transported as necessary in accordance with the following provisions, unless otherwise ordered by the court:
 - (a) If he is lodged in an urban-county facility in the county where the trial is to be held, the jailer shall carry out this duty; and
 - (b) In all other cases, the sheriff ~~or jailer~~ of the county where the prisoner is incarcerated shall carry out this duty as provided in subsection (3) of this section.
- (2) If an accused is sentenced to confinement, the sheriff shall deliver him to the proper detention facility, with the exception that in the case of a sentence to an urban-county detention facility, the jailer shall carry out this duty.
- (3) In each county *where there is no jail*, the fiscal court or the legislative body of a charter county government, as appropriate, shall adopt a transportation plan which establishes the party responsible for transporting prisoners as necessary:
 - (a) The fiscal court or the legislative body of a charter county government, as appropriate, may require the jailer to serve as transportation officer to be responsible for transporting prisoners as necessary; or
 - (b) The fiscal court or the legislative body of a charter county government, as appropriate, may require the sheriff to serve as transportation officer to be responsible for transporting prisoners as necessary; or
 - (c) The fiscal court or the legislative body of a charter county government, as appropriate, may adopt any reasonable transportation plan so long as the party responsible for transporting prisoners is specified.
- (4) *Upon the recommendation of the jailer, the fiscal court shall employ a female transportation officer for purposes of assisting the jailer during the transportation of female prisoners, when deemed necessary by the jailer.*
- (5) In any county where there is no jail and the jailer does not transport prisoners, the jailer shall serve as a bailiff to the Circuit and District Courts of the county as provided for in KRS 71.050.
- (6) *Nothing in this section shall prohibit the jailer from transporting the prisoners as he or she deems necessary.*

Section 3. KRS 532.100 is amended to read as follows:

- (1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the Department of Corrections for the term of his sentence and until released in accordance with the law.
- (2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.
- (3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the Department of Corrections with directions that the sentence be carried out according to law.
- (4)
 - (a) The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is sentenced to an indeterminate term of imprisonment of five (5) years or less, he shall serve that term in a county jail in a county in which the fiscal court has agreed to house state prisoners; except that, when an indeterminate sentence of two (2) years or more is imposed on a Class D felon convicted of a sexual offense enumerated in KRS 197.410(1), the sentence shall be served in a state institution. Counties choosing not to comply with the provisions of this ~~paragraph~~_{subsection} shall be granted a waiver by the commissioner of the Department of Corrections.
 - (b)
 1. *The provisions of KRS 500.080(5) notwithstanding, and except as provided in subparagraph 2. of this paragraph, a Class C or D felon with a sentence of more than five (5) years who is classified by the Department of Corrections as community custody, shall serve that term in a county jail in a county in which the fiscal court has agreed to house state prisoners if:*
 - a. *Beds are available in the county jail;*
 - b. *State facilities are at capacity; and*
 - c. *Halfway house beds are being utilized at the contract level as of July 15, 2000.*
 2. *When an indeterminate sentence of two (2) years or more is imposed on a felon convicted of a sexual offense enumerated in KRS 197.410(1), the sentence shall be served in a state institution.*
 3. *Counties choosing not to comply with the provisions of this paragraph shall be granted a waiver by the commissioner of the Department of Corrections.*
 - (c) *Any jail that houses state inmates under paragraph (a) or (b) of this subsection shall offer programs as recommended by the Jail Standards Commission. The Department of Corrections shall adopt the recommendations of the Jail Standards Commission and promulgate administrative regulations establishing required programs for a jail that houses state inmates under paragraph (a) or (b) of this subsection.*
- (5) The jailer of a county in which a Class D felon *or a Class C felon* is incarcerated may request the commissioner of the Department of Corrections to incarcerate the felon in a state corrections institution if the jailer has reasons to believe that the felon is an escape risk, a danger to himself or other inmates, an extreme security risk, or needs protective custody beyond that which can be provided in a county jail. The commissioner of the Department of Corrections shall evaluate the request and transfer the inmate if he deems it necessary. If the commissioner refuses to accept the felon inmate, and the Circuit Judge of the county that has

jurisdiction of the offense charged is of the opinion that the felon cannot be safely kept in a county jail, the Circuit Judge, with the consent of the Governor, may order the felon transferred to the custody of the Department of Corrections.

- (6) Class D felons *and Class C felons* serving their time in a local jail shall be considered state prisoners, and the Department of Corrections shall pay the jail in which the prisoner is incarcerated a per diem amount determined according to KRS 431.215(2). For other state prisoners and parole violator prisoners, the per diem payments shall also begin on the date prescribed in KRS 431.215(2).
- (7) State prisoners, excluding the Class D felons *and Class C felons* qualifying to serve time in county jails, shall be transferred to the state institution within forty-five (45) days of final sentencing.

Approved April 7, 2000