

CHAPTER 71

(SB 74)

AN ACT relating to the Kentucky State Corrections Commission.

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

Section 1. KRS 196.081 is repealed, reenacted as a new section of KRS 196.700 to 196.735, and amended to read as follows:

- (1) To ***develop and implement a statewide strategic plan for community corrections programs***, ~~[facilitate the need for comprehensive planning for the Department of Corrections and for related matters]~~ the Kentucky State Corrections Commission is created and is attached to the office of the secretary of the Justice Cabinet. The commission shall consist of ***eleven (11)*** ~~[twelve (12)]~~ members as follows:
 - (a) The ***deputy commissioner of the division of community services and local facilities*** ~~[Attorney General]~~;
 - (b) ***A Circuit Court judge appointed by the Chief Justice*** ~~[The secretary of the Justice Cabinet]~~;
 - (c) ***A county judge/executive appointed by the Governor*** ~~[The commissioner of the Department of Corrections]~~;
 - (d) ~~[The chairman of the Parole Board;~~
 - (e) ~~[The secretary of the Cabinet for Families and Children;~~
 - (f) A county jailer ***appointed*** ~~[chosen]~~ by the Governor;
 - ~~[(g) A Circuit Judge chosen by the Governor from a list of three (3) submitted by the Chief Justice;~~
 - ~~[(h) Two (2) criminal justice professionals who are familiar with correctional research, theory, and program implementation, appointed by the Governor;~~
 - ~~[(i) A representative from a law enforcement agency, appointed by the Governor;]~~
 - (e) ~~[(j)]~~ A Commonwealth's attorney ***appointed*** ~~[chosen]~~ by the Governor ~~[from a list of three (3) submitted by the Prosecutors Advisory Council];~~ ~~[and]~~
 - (f) ***A victim, as that term is defined in KRS 346.020, appointed by the Governor;***
 - (g) ***Two (2) service providers from the field of mental health, substance abuse treatment, or vocational and educational training appointed by the Governor;***
 - (h) ***The executive director of the Office of the Criminal Justice Council or the executive director's designee;***
 - (i) ***The executive director of the Parole Board; and***
 - (j) ~~[(k)]~~ The ***public advocate or his or her designee*** ~~[state Public Advocate]~~.
- (2) The terms of those ***members*** ~~[representatives]~~ appointed by the ***appointing authority*** ~~[Governor]~~ shall be three (3) years. These members shall serve at the pleasure of the ***appointing authority*** ~~[Governor]~~ and shall be eligible for reappointment. If there is a vacancy, the ***appointing authority*** ~~[Governor]~~ shall immediately make an appointment effective for the unexpired term.

- (3) The *chairperson of the commission shall be the deputy commissioner of the division of community services and local facilities*~~{Governor shall appoint a chairman of the corrections commission from among its members}~~. The~~{members of the}~~ commission shall elect from among its members a vice *chairperson*~~{chairman}~~ who shall preside and exercise the functions of *the chairperson*~~{chairman}~~ during absence or disability of the *chairperson*~~{chairman}~~.
- (4) Regular meetings of the commission shall be held at least once every *four (4)*~~{three (3)}~~ months at a place, day, and hour determined by the commission. Special meetings shall be held when needed as determined by the *chairperson*~~{chairman}~~. If *five (5)*~~{six (6)}~~ or more members of the commission request in writing that the *chairperson*~~{chairman}~~ call a special meeting, *then* the *chairperson*~~{chairman}~~ shall call a special meeting.
- (5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The *administrative functions of the* commission shall be *performed by a full time employee of the department who is selected by the commissioner*~~{staffed by a director and other staff}~~.
- ~~(6) The commission shall:~~
- ~~(a) Develop and approve the methodology to be used by the commission to project and maintain current six (6) year projections of prison populations;~~
 - ~~(b) Develop a six (6) year plan for Department of Corrections operations, including both construction and programmatic elements; this plan shall be developed with information supplied by the agencies, departments, and groups represented on the commission, and other public and private agencies and citizens with a vested interest in corrections;~~
 - ~~(c) Monitor, modify, and update the six (6) year plan as necessary but not less frequently than semiannually and submit the current plan to the Legislative Research Commission not later than six (6) months prior to the commencement of every even-numbered year regular session of the General Assembly;~~
 - ~~(d) Assist the Department of Corrections in preparing and submitting legislative proposals, including budget requests necessary to implement and update the six (6) year plan;~~
 - ~~(e) Review and make recommendations to the General Assembly concerning legislative proposals, including Department of Corrections budget proposals, to insure consistency with the six (6) year plan;~~
 - ~~(f) Develop, in cooperation with the Department of Public Advocacy, the Administrative Office of the Courts, the Prosecutors Advisory Council, and other interested parties, a schedule of punitive and rehabilitative alternatives to imprisonment for dissemination to judges, prosecutors, and defense attorneys. The schedule shall include, but shall not be limited to, rehabilitation treatment and counseling, community work and service, and drug and alcohol testing;~~
 - ~~(g) Receive regular reports from the Department of Corrections, on a schedule established by the commission, as to the department's progress in complying with the six (6) year plan;~~

- ~~(h) Review and make recommendations to the department on any significant change in programs, policies, procedures, staffing, classification, or other component of corrections operations which departs from the six (6) year plan;~~
- ~~(i) Assist the Legislative Research Commission in the preparation of corrections impact statements for proposed legislation;~~
- ~~(j) Make recommendations to the Governor and the General Assembly concerning legislation affecting corrections including, but not limited to, legislation relating to sentencing, probation, and parole;~~
- ~~(k) In cooperation with the Administrative Office of the Courts, the Prosecutors Advisory Council, the Department for Community Based Services of the Cabinet for Families and Children, and the Kentucky Bar Association, conduct educational seminars for judges, attorneys, and probation officers, to disseminate information concerning the availability and appropriate utilization of community service, rehabilitation, and other types of alternative sentences and conditions of probation; and~~
- ~~(l) Administer the provisions of KRS 196.700 to 196.735.~~
- ~~(7) The six (6) year plan shall consist of at least the following elements:

 - ~~(a) The location, capacity, classification, and staffing of each penal institution and program administered by the Department of Corrections;~~
 - ~~(b) The location, capacity, classification, staffing, and anticipated cost and time of construction of each new facility to be constructed or each facility expansion to be constructed during the six (6) year plan period;~~
 - ~~(c) The administrative structure of the Department of Corrections;~~
 - ~~(d) Prison population projections for the six (6) year plan period;~~
 - ~~(e) Education, rehabilitation, and prison industries programs administered by the Department of Corrections;~~
 - ~~(f) The inmate labor program administered by the department; and~~
 - ~~(g) Contingency plans to deal with unexpected increases in prison population.~~~~
- ~~(8) The six (6) year plan shall be submitted to the General Assembly and approved by the General Assembly with the additions, deletions, or modifications the General Assembly shall deem advisable. Upon adoption by the General Assembly, all new facilities, and renovations and expansions of existing facilities, shall be in accordance with the plan, except in the case of an emergency declared by the Governor after the adoption of the plan. All other material changes in the plan shall be presented to the Corrections Commission for review and recommendation prior to implementation. While a change may be implemented without commission approval, the Corrections Commission shall advise the Legislative Research Commission of any material change request that is not favorably recommended by the commission].~~

SECTION 2. A NEW SECTION OF KRS 196.700 TO 196.735 IS CREATED TO READ AS FOLLOWS:

The commission shall:

- (1) *Develop a statewide strategic plan for the development and implementation of goals and objectives, target populations, and program criteria for community corrections programs;*
- (2) *Conduct, in collaboration with community corrections boards, a statewide assessment of community corrections programs;*
- (3) *Award all grant moneys to community corrections programs;*
- (4) *Review community correction program plans and their implementation to ensure compliance with the statewide strategic plan, including the following goals:*
 - (a) *Effectiveness of community corrections programs in maintaining public safety;*
 - (b) *Reduction of local commitments to the department;*
 - (c) *Reduction in the rate of recidivism; and*
 - (d) *Reduction in revocations of probation and parole;*
- (5) *Provide technical assistance, support, and training to local boards;*
- (6) *Submit an annual report no later than September 1 of each year to the commissioner, the Governor, and the General Assembly which includes at least the following information:*
 - (a) *The status of the implementation of the statewide strategic plan;*
 - (b) *The effectiveness of community corrections programs in achieving the goals outlined in subsection (4) of this section; and*
 - (c) *An accounting of the distribution of grants and other funds; and*
- (7) *Administer the provisions of KRS 196.700 to 196.735.*

Section 3. KRS 196.705 is amended to read as follows:

- ~~{(1) In addition to its responsibilities under KRS 196.081, the Kentucky State Corrections Commission shall administer the provisions of KRS 196.700 to 196.735.~~
- ~~(2) }The purposes of *the commission and community corrections programs shall be to:*~~
- (1) *Provide the judicial system with sentences to be used in lieu of incarceration;*
 - (2) *Develop community-based*~~{KRS 196.700 to 196.735 are to impose community based sanctions in light of the needs of crime victims and the community to reduce prison overcrowding and improve management within the Department of Corrections by providing the judicial system with sentences to be used in lieu of, at less cost, and to better effect on both victims, the community, and the offender than imprisonment. In furtherance of this purpose, KRS 196.700 to 196.735 provide for the following:~~
 - ~~(a) Development of} sentencing alternatives to incarceration for certain individuals convicted of a felony;~~
 - (3) *Monitor and enforce the payment of*~~{(b) Increased opportunities and requirements for certain individuals convicted of a felony to make} restitution to victims of crime and the community through financial reimbursement, ~~{or} community service, or both;~~~~
 - (4) *Stimulate*~~{(c) } local involvement in~~~~{to assure that} community corrections programs to assure that they are specifically designed to meet the needs of the sentencing court and the community; and~~

- (5) ~~Reduce~~~~(d) — Reduced~~ expenditures of state funds *by increasing community-based sentencing, reducing the rate of recidivism, and reducing revocations of probation and parole*~~[through an increase in alternatives to incarceration so that new prisons need not be built or new space added].~~

Section 4. KRS 196.710 is amended to read as follows:

- (1) The *commission*~~[director]~~ shall award grants to community corrections programs in accordance with the policies established by KRS 196.700 to 196.735 and in accordance with any laws *enacted or promulgated*~~[made]~~ for that purpose, including any branch budget bill and appropriation provisions~~[, and shall adopt administrative regulations for the implementation, operation, and monitoring of community corrections programs].~~
- (2) Grants shall be awarded~~[by the director]~~ to community corrections programs whose community corrections program plans meet the requirements set forth in KRS 196.720 and which, in the *commission's*~~[director's]~~ judgment, promise to meet the goals set forth in KRS 196.700 to 196.735. Grants shall be awarded to encourage a range of services in each *judicial circuit*~~[jurisdiction]~~.
- (3) Grants may be awarded only to *community corrections* programs~~[or agencies]~~ which have established community corrections boards as provided in KRS 196.725 unless the *commission*~~[director]~~ determines that the *community corrections* program~~[or agency]~~ is governed by a board which will serve the same functions as described in KRS 196.700 to 196.735, and that establishment of a new or additional board as described in KRS 196.725 would impose an administrative burden upon or pose a conflict of interest for the program~~[or agency]~~.
- (4) Grants shall not be awarded to programs that have failed to accomplish the *goals*~~[purposes]~~ set forth in *subsection (4) of Section 2 of this Act*~~[KRS 196.705]~~ and that show no promise of doing so in the future, as determined pursuant to KRS 196.735.
- (5) Preference in funding may be given to *judicial circuits*~~[areas of the state]~~ in which programs and services do not exist or are largely inadequate.

Section 5. KRS 196.720 is amended to read as follows:

Community corrections programs~~[Agencies]~~ applying for grants under KRS 196.700 to 196.735 shall prepare a community corrections program plan for the judicial circuit, as prescribed by the *commission*~~[director]~~. More than one (1) community corrections program plan may be prepared, submitted, and approved for any one (1) judicial circuit. The plan shall include:

- (1) Objectives of the community corrections program described in the community corrections program plan.
- (2) Realistic goals for reduction of offenders committed to prison for each county within the judicial circuit, and a system of monitoring the number of commitments to prison.
- (3) Procedures for identifying targeted offenders, and a plan for referral of targeted offenders to the community corrections program.
- (4) Procedures for preparing and presenting community penalty plans to the court, when applicable.
- (5) Procedures for obtaining services from existing public or private agencies, and a detailed budget for staff, contracted services, and all other costs.

- (6) Procedures for monitoring the progress of offenders on community penalty plans and for cooperating with the probation personnel who have supervisory responsibility for the offender, when applicable.
- (7) Procedures for returning offenders who do not comply with their community penalty plan to court for action by the court.
- (8) Procedures for evaluating the program's effect on numbers of prison commitments *and revocations of probation and parole*.

Section 6. KRS 196.735 is amended to read as follows:

The *commission*~~[director]~~ shall evaluate each community corrections program on an annual basis to determine the degree to which~~[the prison commitments]~~ the program has accomplished the *goals*~~[purposes]~~ set forth in *subsection (4) of Section 2 of this Act*~~[KRS 196.705]~~. The *commission*~~[director]~~ shall not renew or continue a program that has failed to accomplish those *goals*~~[purposes]~~ and that shows no promise of doing so in the future, after allowing for changes in the number of convictions.

Section 7. KRS 196.700 is amended to read as follows:

As used in KRS 196.700 to 196.735, unless the context otherwise requires:

- (1) *"Commission" means the Kentucky State Corrections Commission created in Section 1 of this Act;*
- (2) "Community corrections program" means a local government agency, private nonprofit, or charitable organization within the judicial circuit which shall perform one (1) or more of the following:
 - (a) Prepare community penalties plans;
 - (b) Directly provide, arrange, or contract with public and private agencies for sentencing services for offenders; and
 - (c) Monitor the progress of offenders placed on community penalty plans or who receive sentencing services through provisions of KRS 196.700 to 196.735;~~[-]~~
- ~~(3)(2)~~ "Community corrections programs plan" means a written plan for the development, implementation, operation, and improvement of a community corrections program;~~[-]~~
- ~~(4)(3)~~ "Community penalties plan" means a plan presented in writing to the sentencing judge which provides a detailed description of and rationale for the targeted offender's proposed sentence to a community corrections program or to one (1) or more special programs, conditions of probation, community punishments, or sanctions in lieu of lengthy incarceration;~~[-]~~
- ~~(4)~~ ~~"Director" means the director of the Kentucky State Corrections Commission, who shall be the secretary of the Justice Cabinet, or his designee.~~
- (5) "Judicial circuit" means the circuits prescribed by KRS 23A.020; *and*~~[-]~~
- (6) "Targeted offenders" means persons charged with or convicted of one (1) or more felonies who under application of law are eligible for probation or suspension of sentence or a minimum period of incarceration not to exceed one (1) year.

Section 8. KRS 196.070 is amended to read as follows:

- (1) The commissioner of the Department of Corrections shall:
 - (a) Supervise and administer the Kentucky State Reformatory, the Kentucky Correctional Institution for Women, the Kentucky State Penitentiary, Northpoint Training Center, the Luther Lockett Correctional Complex, the Eastern Kentucky Correctional Complex, the Green River Correctional Complex, the Western Kentucky Correctional Complex, the Roederer Correctional Complex, and any minimum security correctional institutions established and operated by the department, or any divisions of those institutions, the private prisons as provided by KRS 197.500, and the prison industry program within those institutions.
 - (b) Supervise the employment of prisoners who have not been paroled or conditionally released, either within or without the walls or enclosures of these institutions.
 - (c) Have the authority to transfer, with the approval of the secretary of the Finance and Administration Cabinet, appropriated funds from the budget of one (1) penal institution to another.
 - (d) Determine minimum, maximum, and conditional release dates of prisoners in accordance with KRS 197.045.
 - (e) Authorize the transfer of prisoners between institutions.
 - (f) Create those positions and employ those personnel necessary to perform the functions of the department.
 - (g) ***Promulgate administrative regulations in accordance with KRS Chapter 13A to implement KRS 196.700 to 196.735.***
- (2) The commissioner may organize and maintain a training division for employees of the department and others and in connection therewith promulgate administrative regulations covering the course and conduct of the training and the period of time for which any employee or applicant therefor shall attend the school.
 - (a) The Division of Corrections Training shall establish, supervise, and coordinate training programs and schools for corrections personnel, jail personnel, and any other justice or nonlaw-enforcement related personnel as prescribed by the secretary and shall issue certification to those employees having successfully met the requirements of the training program.
 - (b) The Division of Corrections Training shall make a continuing study of corrections training standards and design, develop, and deliver preservice and in-service training programs.
 - (c) The Division of Corrections Training shall, by administrative regulations, prescribe minimum qualifications for its instructors and shall approve, issue, or revoke the certification of instructors.

Section 9. KRS 196.010 is amended to read as follows:

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

- (1) ***"Cabinet" means the Justice Cabinet***~~["Secretary" means secretary of the Justice Cabinet];~~
- (2) "Commissioner" means commissioner of the Department of Corrections;
- (3) "Department" means the Department of Corrections;

- (4) "Institution" means any institution under the control of the Department of Corrections; and
- (5) "*Secretary*" means *secretary of the Justice Cabinet* [~~"Cabinet" means the Justice Cabinet~~].

Section 10. KRS 196.026 is amended to read as follows:

The Department of Corrections shall consist of the following organizational units:

- (1) Office of General Counsel;
- (2) Division of Administrative Services;
- (3) Division of Corrections Training;
- (4) Division of Institutional Operations;
- (5) Division of Mental Health Programs;
- (6) Division of Correctional Industries;
- (7) Division of Medical Services;
- (8) Division of Probation and Parole;
- (9) Division of *Community Services and* Local Facilities;
- (10) Division of Personnel Services; and
- (11) Western Region Division and Eastern Region Division, Adult Institutions.

Each state penal correctional institution referenced in KRS 197.010 shall be considered a division for organizational purposes. Each institution shall be headed by a warden pursuant to KRS 196.160.

Section 11. KRS 196.031 is amended to read as follows:

- (1) The cabinet shall employ the personnel and operate and maintain data collection and processing systems necessary to comply with the provisions of this section.
- (2) The cabinet shall annually on July 1 of each year report to the Governor, the Legislative Research Commission, and the Kentucky State Corrections Commission on:
 - (a) The placement of prisoners within the Commonwealth's correctional system by institution, whether imprisoned in a state prison or other institution, including county jails, on probation, paroled, housed in halfway houses, sentenced to community service or otherwise;
 - (b) Numbers of prisoners by type of offense;
 - (c) Numbers of prisoners by number and type of prior convictions;
 - (d) Numbers of prisoners paroled by type of offense and by length of time served;
 - (e) Numbers of prisoners released through shock probation by type of offense and by length of time served; and
 - (f) Numbers of prisoners serving their full sentence by type of offense.
- (3) The cabinet shall annually report to the Governor and to the Legislative Research Commission on:

- (a) Numbers and types of prison beds necessary to meet current population needs and six (6) year projections of *those*~~[the]~~ needs~~[- based on the methodology developed and approved by the State Corrections Commission];~~
- (b) Current personnel needs of the cabinet and five (5) year projections of the needs; and
- (c) A six (6) year projection of needed capital construction, program development, and anticipated requests for appropriations.

Section 12. The General Assembly confirms Executive Order 2002-1068, dated September 12, 2002, to the extent that it is not otherwise confirmed or superseded by this Act.

Approved March 18, 2003