

CHAPTER 137**(HB 157)**

AN ACT relating to services for individuals with brain injuries or malfunctions and making an appropriation therefor.

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

Section 1. KRS 189A.050 is amended to read as follows:

- (1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall be sentenced to pay a service fee of **three hundred twenty-five**~~two hundred fifty~~ dollars (**\$325**)~~(\$250)~~, which shall be in addition to all other penalties authorized by law.
- (2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.
- (3) The revenue collected from the service fee imposed by this section shall be utilized as follows:
 - (a) ~~Twelve~~~~Fifteen~~ percent (**12%**)~~(15%)~~ of the amount collected shall be transferred to the Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;
 - (b) ~~Twenty~~~~Twenty-five~~ percent (**20%**)~~(25%)~~ of the service fee collected pursuant to this section shall be allocated to the Department of Public Advocacy;
 - (c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;
 - (d) **Sixteen percent (16%) of the amount collected shall be transferred as follows:**
 1. **Fifty percent (50%) shall be credited to the Traumatic Brain Injury Trust Fund established under KRS 211.476; and**
 2. **Fifty percent (50%) shall be credited to the Cabinet for Health Services, Department for Mental Health and Mental Retardation Services, for the purposes of providing direct services to individuals with brain injuries that may include long-term supportive services and training and consultation to professionals working with individuals with brain injuries. As funding becomes available under this subparagraph, the Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the services permitted by this subparagraph.**
 - (e) Any amount specified by a specific statute shall be transferred as provided in that statute;~~and~~
 - ~~(f)~~~~(e)~~ **Forty-six percent (46%) of the amount collected shall be transferred to**~~The remainder of the service fee shall~~ be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department of Public Advocacy; **and**

(g) The remainder of the amount collected shall be transferred to the general fund.

- (4) The amounts specified in subsection (3)(a), (b), ~~and~~ (c), **and** (d) of this section shall be placed in trust and agency accounts that shall not lapse.

SECTION 2. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Prisoner" has the same meaning as set out in KRS 441.005; and

(b) "Qualified mental health professional" has the same meaning as set out in KRS 202A.011.

(2) The Cabinet for Health Services shall create a telephonic behavioral health jail triage system to screen prisoners for mental health risk issues, including suicide risk. The triage system shall be designed to give the facility receiving and housing the prisoner an assessment of his or her mental health risk, with the assessment corresponding to recommended protocols for housing, supervision, and care which are designed to mitigate the mental health risks identified by the system. The triage system shall consist of:

(a) A screening instrument which the personnel of a facility receiving a prisoner shall utilize to assess inmates for mental health, suicide, mental retardation, and acquired brain injury risk factors; and

(b) A continuously available toll-free telephonic triage hotline staffed by a qualified mental health professional which the screening personnel may utilize if the screening instrument indicates an increased mental health risk for the assessed prisoner.

(3) In creating and maintaining the telephonic behavioral health jail triage system, the cabinet shall consult with:

(a) The Department of Corrections;

(b) The Kentucky Jailers Association;

(c) The Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses; and

(d) The regional community mental health and mental retardation services programs created under KRS 210.370 to 210.460.

(4) The cabinet may delegate all or a portion of the operational responsibility for the triage system to the regional community mental health and mental retardation services programs created under KRS 210.370 to 210.460 if the regional program agrees and the cabinet remains responsible for the costs of delegated functions.

(5) The cabinet shall design into the implemented triage system the ability to screen and assess prisoners who communicate other than in English or who communicate other than through voice.

(6) The cost of operating the telephonic behavioral health jail triage system shall be borne by the cabinet.

(7) Records generated under this section shall be treated in the same manner and with the same degree of confidentiality as other medical records of the prisoner.

- (8) *Unless the prisoner is provided with an attorney during the screening and assessment, any statement made by the prisoner in the course of the screening or assessment shall not be admissible in a criminal trial of the prisoner, unless the trial is for a crime committed during the screening and assessment.*
- (9) *The cabinet may, after consultation with those entities set out in subsection (3) of this section, promulgate administrative regulations for the operation of the telephonic behavioral health jail triage system and the establishment of its recommended protocols for prisoner housing, supervision, and care.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

Every prisoner upon admittance to detention shall be screened for mental health risk issues, including mental illness, suicide, mental retardation, and acquired brain injury, by the personnel of the facility in which facility the prisoner is detained. Facilities have the discretion of using the telephonic behavioral health jail triage system created in Section 2 of this Act. Where the triage system indicates levels of behavioral health risk, the facility holding the prisoner may consider implementing the recommended protocols for housing, supervision, and care delivery that match the level of risk.

SECTION 4. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:

In addition to the twenty dollar (\$20) fee created by 2004 Ky. Acts ch. 78, sec. 1, in criminal cases a five dollar (\$5) fee shall be added to the costs imposed by KRS 23A.205 that the defendant is required to pay. The fees collected under this section shall be allocated to the Cabinet for Health Services for the implementation and operation of a telephonic behavioral health jail triage system as provided in Sections 2 and 3 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

In addition to the twenty dollar (\$20) fee created by 2004 Ky. Acts ch. 78, sec. 2, in criminal cases a five dollar (\$5) fee shall be added to the costs imposed by KRS 24A.175 that the defendant is required to pay. The fees collected under this section shall be allocated to the Cabinet for Health Services for the implementation and operation of a telephonic behavioral health jail triage system as provided in Sections 2 and 3 of this Act.

Section 6. The moneys received from the fines levied under subparagraphs 1. and 2. of paragraph (d) of subsection (3) of Section 1 of this Act are hereby appropriated for the purposes provided in those subparagraphs.

Approved April 22, 2004