CHAPTER 156

(HB 54)

AN ACT relating to the criminal justice system.

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

➔Section 1. KRS 431.066 is amended to read as follows:

(1) ***For purposes of this section, "verified and eligible defendant" means a defendant who pretrial services is able to interview and assess, and whose identity pretrial services is able to confirm through investigation.***

(2) When a court considers pretrial release and bail for an arrested defendant, the court shall consider whether the defendant constitutes a flight risk, is unlikely to appear for trial, or is likely to be a danger to the public if released. ***In making this determination, the court shall consider the pretrial risk assessment for a verified and eligible defendant along with the factors set forth in KRS 431.525.***

(3)~~[(2)]~~ If ***a verified and eligible***~~[the]~~ defendant poses low risk of flight, is likely to appear for trial, and is not likely to be a danger to others, the court shall order the defendant released on unsecured bond or on the defendant's own recognizance subject to such other conditions as the court may order.

(4)~~[(3)]~~ If ***a verified and eligible***~~[the]~~ defendant poses a moderate risk of flight, has a moderate risk of not appearing for trial, or poses a moderate risk of danger to others, the court shall release the defendant under the same conditions as in subsection ***(3)***~~[(2)]~~ of this section but shall consider ordering the defendant to participate in global positioning system monitoring, controlled substance testing, increased supervision, or such other conditions as the court may order.

(5)~~[(4)]~~ (a) Except as provided in paragraph (b) of this subsection, regardless of the amount of the bail set, the court shall permit the defendant a credit of one hundred dollars ($100) per day as a payment toward the amount of the bail set for each day or portion of a day that the defendant remains in jail prior to trial. Upon the service of sufficient days in jail to have sufficient credit to satisfy the bail,~~[the court shall order]~~ the defendant ***shall be*** released from jail on the conditions specified in this section or in this chapter.

(b) The provisions of paragraph (a) of this subsection shall not apply to:

1. Any person convicted of, pleading guilty to, or entering an Alford plea to a felony offense under KRS Chapter 510, KRS 529.100 involving commercial sexual activity, KRS 530.020, 530.064(1)(a), 531.310, or 531.320, or who is a violent offender as defined in KRS 439.3401; or

2. A defendant who is found by the court to present a flight risk or to be a danger to others.

(c) For purposes of this subsection, "a day or portion of a day" means any time spent in a detention facility following booking.

(d) A defendant shall not earn credit pursuant to paragraph (a) of this subsection while also earning credit pursuant to KRS 534.070.

(6)~~[(5)]~~ If a court determines that a defendant shall not be released pursuant to subsection ***(5)***~~[(4)]~~ of this section, the court shall document the reasons for denying the release in a written order.

(7)~~[(6)]~~ The jailer shall be responsible for tracking the credit earned by a defendant pursuant to subsection ***(5)***~~[(4)]~~ of this section.

➔Section 2. KRS 431.520 is amended to read as follows:

Any person charged with an offense shall be ordered released by a court of competent jurisdiction pending trial on his personal recognizance or upon the execution of an unsecured bail bond in an amount set by the court or as fixed by the Supreme Court as provided by KRS 431.540, unless the court determines in the exercise of its discretion that such a release will not reasonably assure the appearance of the person as required***, or the court determines the person is a flight risk or a danger to others***. When such a determination is made, the court shall, either in lieu of or in addition to the above methods of release, impose any of the following conditions of release:

(1) Place the person in the custody of a designated person or organization agreeing to supervise him;

(2) Place restrictions on the travel, association, or place of abode of the person during the period of release;

(3) Require the execution of a bail bond:

(a) With sufficient personal surety or sureties acceptable to the court; in determining the sufficiency of such surety, or sureties, the court shall consider his character, his place of residence, his relationship with the defendant, and his financial and employment circumstances; or

(b) With the ***ten percent (***10%***)*** deposit as provided in KRS 431.530***; provided that if the defendant is permitted to earn credit toward bail pursuant to Section 1 of this Act, that credit shall be applied to the ten percent (10%) deposit***; or

(c) With the deposit of cash equal to the amount of the bond or in lieu thereof acceptable security as provided in KRS 431.535;

(4) If the person's record indicates a history of controlled substance or alcohol abuse, order the person to submit to periodic testing for use of controlled substances or alcohol and pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court with the fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. If the person is declared indigent, the testing fee may be waived by the court. The Administrative Office of the Courts shall establish pilot projects to implement the provisions of this subsection;

(5) (a) During all or part of a person's period of release pursuant to this section, order the person to participate in a global positioning monitoring system program operated by a county pursuant to KRS 67.372 and 67.374 under the same terms and conditions provided under KRS 431.517.

(b) If the person is charged with a sex crime as defined in KRS 17.500, consider requiring that he or she be monitored electronically, and shall consider requiring the person be subject to home incarceration;

(6) Impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours;

(7) A court authorizing the release of a person pursuant to this section shall cause the issuance of an appropriate order containing a statement of the conditions imposed, if any, shall cause such person to be informed of the penalties applicable to violations of the conditions of his release, and shall cause him to be informed that a warrant for his arrest will be issued immediately upon any such violation;

(8) A person for whom conditions of release are imposed and who after twenty-four (24) hours from the time of the imposition of said conditions continues to be detained as a result of his inability to meet the conditions of release shall, upon written application or upon the court's own motion, be entitled to have the conditions reviewed by the court which imposed them. A person who is ordered released on a condition which requires that he return to custody after specified hours shall, upon written application or upon the court's own motion, be entitled to a review by the court which imposed the condition;

(9) If at any time following release of a defendant and before he is required to appear for trial, the court is advised of a material change in the defendant's circumstances or that he has not complied with all conditions imposed upon his release, the court having jurisdiction may:

(a) Order the arrest of the defendant;

(b) Enter an order requiring the defendant, his surety or sureties to appear and show cause why the bail bond should not be forfeited or the conditions of his release be changed; or

(c) Both.

A copy of said order shall be served upon the defendant, his surety or sureties. If the defendant fails to appear before the court as ordered or if, after hearing, the court finds the conditions of release have not been complied with, the court may change the conditions imposed or forfeit the bail bond or any portion thereof and enter a judgment for the Commonwealth against the defendant and his surety or sureties for the amount of the bail bond or any portion thereof and cost of the proceedings.

➔Section 3. KRS 431.530 is amended to read as follows:

(1) Any person who has been permitted to execute a bail bond in accordance with KRS 431.520(3)(b) shall deposit with the clerk of the court before which the action is pending a sum of money equal to ten percent (10%) of the bail, but in no event shall such deposit be less than ten dollars ($10) ***unless the defendant earned full credit toward the applicable amount of bail pursuant to Section 1 of this Act, in which case the defendant shall not be required to make a deposit with the clerk of the court***.

(2) Upon depositing said sum the defendant shall be released from custody subject to all conditions of release imposed by the court.

(3) Except as provided in subsection (5) of this section, if the conditions of release have been performed and the defendant has been discharged from all obligations in the action the clerk of the court shall return to the defendant, unless the court orders otherwise, ninety percent (90%) of the sum deposited and shall retain as bail costs ten percent (10%) of the amount deposited; provided, however, in no event shall the amount retained by the clerk as bail costs be less than five dollars ($5). It is further provided that the court shall order the clerk of court to pay into the public advocate special account any amount of the sum deposited by the defendant, in excess of bail costs, which in its sound discretion represents a reasonable fee for any public advocate legal or investigative services provided for the defendant under KRS Chapter 31, but in no event shall the amount so paid to the public advocate special account as public advocate legal and investigative fees be less than five dollars ($5) per case. At the request of the defendant the court may order the amount repayable to defendant from such deposit to be paid to defendant's attorney of record.

(4) Except as provided in subsection (5) of this section, if a final judgment for a fine and court costs or either is entered in the prosecution of an action in which a deposit has been made in accordance with subsection (1) of this section, the balance of such deposit, after deduction of bail costs and public advocate fees as provided for in subsection (3) of this section, shall be applied to the satisfaction of the judgment.

(5) If the defendant has performed all conditions of release and if the defendant is found not guilty of the offense for which bail was posted, or if all charges against him relating to the offense for which bail was posted are dropped or dismissed, then all bail money deposited by the defendant or by another person on his behalf shall be returned to him with no deductions therefrom as provided in subsection (3) or (4) of this section.

➔Section 4. KRS 534.060 is amended to read as follows:

(1) When an individual sentenced to pay a fine defaults in the payment of the fine or any installment, the court upon motion of the prosecuting attorney or upon its own motion may require him to show cause why he should not be imprisoned for nonpayment. The court may issue a warrant of arrest or a summons for his appearance.

(2) Following an order to show cause under subsection (1), unless the defendant shows that his default was not attributable to an intentional refusal to obey the sentence of the court and not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for payment, the court may order the defendant imprisoned for a term not to exceed:

(a) Six (6) months, if the fine was imposed for the conviction of a felony; or

(b) One-third (1/3) of the maximum authorized term of imprisonment for the offense committed, if the fine was imposed for conviction of a misdemeanor; or

(c) Ten (10) days, if the fine was imposed for conviction of a violation.

(3) If the default in payment of a fine is determined to be excusable under the standards set forth in subsection (2), the court may enter an order allowing the defendant additional time for payment, reducing the amount of each installment, or modifying the manner of payment in any other way.~~[In addition the court may enter an order compelling the defendant to work for a department of local government, if:~~

~~(a) Such department, through appropriate authority, approves the defendant's employment;~~

~~(b) Such department will pay the defendant for his work at a reasonable rate of compensation;~~

~~(c) The defendant is not otherwise gainfully employed nor medically disabled; and~~

~~(d) Such employment will not cause economic hardship to the defendant or his dependents.~~

~~In the event such an order is entered the court shall designate the portion of the defendant's compensation that is to be credited toward payment of his fine, which in no event shall be more than forty percent (40%) of gross compensation.]~~

(4) When a fine is imposed on a corporation, it is the duty of the person or persons authorized to make disbursement of the assets of the corporation and their superiors to pay the fine from assets of the corporation. The failure of such persons to do so shall render them subject to imprisonment under subsections (1) and (2).

(5) Following a default in the payment of a fine or any installment thereof, the fine may be collected by any means authorized for the enforcement of money judgments rendered in favor of the Commonwealth.

➔Section 5. KRS 534.070 is amended to read as follows:

(1) A defendant who has been sentenced to jail for failure to pay a fine or court costs or for failure to appear in court on a date set for the sole purpose of addressing nonpayment of a fine or court costs shall receive credit against the fine and costs owed for each day the defendant spends in jail at the following rates:

(a) Fifty dollars ($50) per day if the defendant does not work at a community service or community labor program; or

(b) One hundred dollars ($100) per day if the defendant works eight (8) hours per day at a community service or community labor program. If the defendant works less than eight (8) hours in a community service or community labor program, the defendant shall be allowed an amount of one-eighth (1/8) of the one hundred dollars ($100) for each hour worked in a community service or community labor program.

(2) Credit against a fine or court costs earned by a defendant pursuant to this section shall prohibit the collection of any part of a fine or costs which has been credited pursuant to this section, and that portion of the fine or costs shall be considered paid.

(3) The jailer shall be responsible for monitoring a defendant's community service and tracking the number of days to be served to pay any outstanding fine or court costs.

(4) If a partial payment is made by the defendant or on behalf of a defendant, that payment shall be applied first to court costs, then to fees, and then to fines pursuant to KRS 23A.205 or 24A.175 prior to the application of any credit earned pursuant to this section. Credit earned pursuant to this section shall not be applied to restitution.

➔Section 6. KRS 218A.135 is amended to read as follows:

(1) Any statute to the contrary notwithstanding, a defendant charged with an offense under this chapter for which a conviction may result in presumptive probation shall be placed on pretrial release on his or her own recognizance or on unsecured bond by the court subject to any conditions, other than bail, specified in KRS 431.515 to 431.550.

(2) The provisions of this section shall not apply to a defendant who is found by the court to present a flight risk~~[,]~~ or to be a danger to~~[himself or herself or a danger to]~~ others.

(3) If a court determines that a defendant shall not be released pursuant to subsection (2) of this section, the court shall document the reasons for denying the release in a written order.

➔Section 7. KRS 218A.1413 is amended to read as follows:

(1) A person is guilty of trafficking in a controlled substance in the second degree when:

(a) He or she knowingly and unlawfully traffics in:

1. Ten (10) or more dosage units of a controlled substance classified in Schedules I and II that is not a narcotic drug; or specified in KRS 218A.1412; or

2. Twenty (20) or more dosage units of a controlled substance classified in Schedule III; but not naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone, 3,4-methylenedioxymethylcathinone, 4-methylmethcathinone, synthetic cannabinoid agonists or piperazines, salvia, or marijuana;

(b) He or she knowingly and unlawfully prescribes, distributes, supplies, or sells an anabolic steroid for:

1. Enhancing human performance in an exercise, sport, or game; or

2. Hormonal manipulation intended to increase muscle mass, strength, or weight in the human species without a medical necessity; or

(c) ***He or she knowingly and unlawfully traffics in*** any quantity of a controlled substance specified in paragraph (a) of this subsection in an amount less than the amounts specified in that paragraph.

(2) (a) Except as provided in paragraph (b) of this subsection, any person who violates the provisions of subsection (1) of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense.

(b) Any person who violates the provisions of subsection (1)(c) of this section shall be guilty of:

1. A Class D felony for the first offense, except that KRS Chapter 532 to the contrary notwithstanding, the maximum sentence to be imposed shall be no greater than three (3) years; and

2. A Class D felony for a second offense or subsequent offense.

➔Section 8. KRS 218A.275 is amended to read as follows:

(1) A court may request the Division of Probation and Parole to perform a risk and needs assessment for any person found guilty of possession of a controlled substance pursuant to KRS 218A.1415, 218A.1416, or 218A.1417. The assessor shall make a recommendation to the court as to whether treatment is indicated by the assessment, and, if so, the most appropriate treatment or recovery program environment. If treatment is indicated for the person, the court may order him or her to the appropriate treatment or recovery program that will effectively respond to the person's level of risk, criminal risk factors, and individual characteristics as designated by the secretary of the Cabinet for Health and Family Services where a program of treatment or recovery not to exceed one (1) year in duration may be prescribed. The person ordered to the designated treatment or recovery program shall present himself or herself for registration and initiation of the treatment or recovery program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated treatment or recovery program within the specified time, or if at any time during the program of treatment or recovery prescribed, the authorized director of the treatment or recovery program finds that the person is unwilling to participate in his or her treatment, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment, or may rescind the treatment order and impose a sentence for the possession offense. Upon discharge of the person from the treatment or recovery program by the secretary of the Cabinet for Health and Family Services, or his or her designee, prior to the expiration of the one (1) year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his or her designee, shall notify the sentencing court of the date of such discharge from the treatment or recovery program.

(2) The secretary of the Cabinet for Health and Family Services, or his or her designee, shall inform each court of the identity and location of the treatment or recovery program to which the person is sentenced.

(3) Transportation to an inpatient facility shall be provided by order of the court when the court finds the person unable to convey himself or herself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(4) The sentencing court shall immediately notify the designated treatment or recovery program of the sentence and its effective date.

(5) The secretary for health and family services, or his or her designee, may authorize transfer of the person from the initially designated treatment or recovery program to another treatment or recovery program for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating treatment or recovery program and shall be notified by the secretary of the new treatment or recovery program to which the person was transferred.

(6) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the Cabinet for Health and Family Services, unless the person and the treatment or recovery program shall arrange otherwise.

(7) None of the provisions of this section shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(8) ***Except as provided in subsection (12) of this section,*** in the case of any person who has been convicted for the first time of~~[a misdemeanor]~~ possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation, or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a first offense for purposes of this chapter or deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of a conviction under this subsection and dismissal may occur only once with respect to any person.

(9) If the court voids a conviction under this section, the court shall order the sealing of all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, except as provided in KRS 27A.099. The court shall order the sealing on a form provided by the Administrative Office of the Courts. Every agency with records relating to the arrest, charge, or other matters

arising out of the arrest or charge that is ordered to seal records, shall certify to the court within sixty (60) days of the entry of the order that the required sealing action has been completed.

(10) After the sealing of the record, the proceedings in the matter shall not be used against the defendant except for the purposes of determining the person's eligibility to have his or her conviction voided under subsection (8) of this section. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record has been sealed shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.

(11) Inspection of the sealed records may thereafter be permitted by the court pursuant to KRS 27A.099 or upon a motion by the person who is the subject of the records and only to those persons named in the motion or upon a motion of the prosecutor to verify a defendant's eligibility to have his or her conviction voided under subsection (8) of this section.

(12) A person who has previously had a charge of possession of controlled substances dismissed after completion of a deferred prosecution under Section 9 of this Act shall not be eligible for voiding of conviction under this section.

➔Section 9. KRS 218A.14151 is amended to read as follows:

(1) A defendant charged with his or her first or second offense under KRS 218A.1415 may enter a deferred prosecution program subject to the following provisions:

(a) The defendant requests deferred prosecution in writing on an application created under KRS 27A.099, and the prosecutor agrees;

(b) The defendant shall not be required to plead guilty or enter an Alford plea as a condition of applying for participation in the deferred prosecution program;

(c) The defendant agrees to the terms and conditions set forth by the Commonwealth's attorney and approved by the court, which may include any provision authorized for pretrial diversion pursuant to KRS 533.250(1)(h) and (2); and

(d) The maximum length of participation in the program shall be two (2) years.

(2) If a prosecutor denies a defendant's request to enter a deferred prosecution program, the prosecutor shall state on the record the substantial and compelling reasons why the defendant cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety.

(3) If the defendant successfully completes the deferred prosecution program, the charges against the defendant shall be dismissed, and all records relating to the case, including but not limited to arrest records and records relating to the charges, shall be sealed, except as provided in KRS 27A.099. The offense shall be deemed never to have occurred, except for the purposes of determining the defendant's eligibility for deferred prosecution ***under this section or voiding of the conviction under Section 8 of this Act***, and the defendant shall not be required to disclose the arrest or other information relating to the charges or participation in the program unless required to do so by state or federal law.

(4) If the defendant is charged with violating the conditions of the program, the court, upon motion of the Commonwealth's attorney, shall hold a hearing to determine whether the defendant violated the conditions of the program.

(5) If the court finds that the defendant violated the conditions of the program, the court may, with the approval of the prosecutor:

(a) Continue the defendant's participation in the program;

(b) Change the terms and conditions of the defendant's participation in the program; or

(c) Order the defendant removed from the program and proceed with ordinary prosecution for the offense charged.

➔Section 10. KRS 26A.400 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires, "drug court program" means any drug court program authorized and administered by the Kentucky Supreme Court.

(2) The Supreme Court of Kentucky shall administer the drug court program to:

(a) Develop standards, establish program eligibility, and provide oversight for operation for drug court programs;

(b) Define, develop, and gather outcome measures for drug court programs;

(c) Collect, report, and disseminate drug court data;

(d) Sponsor and coordinate state drug court training; and

(e) Apply for, administer, and evaluate ***any grant for drug court purposes*** ~~[state drug court grants]~~.

(3) Nothing contained in this section shall confer a right or an expectation of a right to treatment for an offender within the criminal justice system or the juvenile justice system.

(4) If a defendant has been accepted into the drug court program and is supervised by that program as a condition of probation, the defendant shall not be subject to the supervision of the Division of Probation and Parole during his or her participation in the drug court program.

➔Section 11. KRS 27A.097 (Effective July 1, 2013) is amended to read as follows:

(1) As used in this section, "evidence-based practices" means intervention programs and supervision policies, procedures, programs, and practices that scientific research demonstrates reduce instances of a defendant's failure to appear in court and criminal activity among ~~[pretrial]~~ defendants when implemented competently.

(2) In order to increase the effectiveness of supervision and intervention programs funded by the state and provided to ~~[pretrial]~~ defendants, the Supreme Court shall require that a vendor or contractor providing supervision and intervention programs for adult criminal defendants use evidence-based practices.

(3) The Supreme Court shall measure the effectiveness of supervision and intervention programs provided by vendors or contractors and demonstrate that the programs have a documented evidence base and have been evaluated for effectiveness in reducing a defendant's failure to appear in court and criminal activity.

(4) The Supreme Court shall require, at a minimum, the following:

(a) A process for reviewing the objective criteria for evidence-based practices established by the vendor or contractor providing the program;

(b) A process for auditing the effectiveness of the program;

(c) An opportunity for programs that do not meet the criteria based on the audit results to improve performance; and

(d) A mechanism to defund any program provided by a vendor or contractor that does not meet the criteria upon a second audit.

(5) Beginning July 1, 2012, twenty-five percent (25%) of state moneys expended on supervision and intervention programs for pretrial defendants shall be for programs that are in accordance with evidence-based practices. Beginning July 1, 2016, fifty percent (50%) of state moneys expended on supervision and intervention programs shall be for programs that are in accordance with evidence-based practices. Beginning July 1, 2016, and thereafter, seventy-five percent (75%) of state moneys expended on supervision and intervention programs shall be for programs that are in accordance with evidence-based practices.

➔Section 12. KRS 439.320 is amended to read as follows:

(1) The Governor shall appoint a Parole Board consisting of nine (9) full-time members to be confirmed by the Senate in accordance with KRS 11.160. The Governor shall make each appointment from a list of three (3) names given to him or her by the Kentucky State Corrections Commission. Each member appointed to the board shall have had at least five (5) years of actual experience in the field of penology, correction work, law enforcement, sociology, law, education, social work, medicine, or a combination thereof, or have served at least five (5) years previously on the Parole Board. No more than six (6) board members shall be of the same political party. The board shall be attached to the Justice and Public Safety Cabinet for administrative purposes only. The Department of Corrections shall provide any clerical, stenographic, administrative, and expert staff assistance the board deems necessary to carry out its duties.

(2) The Governor shall designate one (1) member as chairperson of the board. The member designated as chairperson shall serve in that capacity at the pleasure of the Governor or until his or her term expires.

(3) The members of the board shall give full time to the duties of their office and shall receive necessary traveling expenses and a salary to be determined pursuant to KRS 64.640(2), except the chairperson of the board shall

receive additional compensation of one thousand dollars ($1,000) per year for his or her services. Their terms of office shall be four (4) years and until their successors are appointed and have qualified. Their successors shall be appointed thereafter as provided in this section for terms of four (4) years, and a vacancy occurring before expiration of the term of office shall be similarly filled for the unexpired term.

(4) The organization of the board shall be determined by the chairperson and shall be consistent with administrative regulations promulgated pursuant to KRS 439.340. For policy and procedural matters, five (5) members shall constitute a quorum. Parole and final parole revocation hearings may be done by panels of the board, subject to the following requirements:

(a) If a two (2) member panel is utilized, both members of the panel shall agree on the decision or the matter shall be referred to the full board;

(b) If a three (3) member panel is utilized, two (2) of the three (3) members of the panel shall agree on a decision or the matter shall be referred to the full board; and

(c) If a panel of four (4) or more members is utilized, a majority of the panel shall agree on a decision or the matter shall be referred to the full board.

(5) The Governor may not remove any member of the board except for disability, inefficiency, neglect of duty, or malfeasance in office. Before removal, he or she shall give the member a written copy of the charges against him or her and shall fix the time when he or she can be heard in his or her defense, which shall not be less than ten (10) days thereafter. Upon removal, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the member and the findings thereupon with a record of the proceedings.

(6)~~[Upon the expiration of the terms of office of the two (2) full-time board members whose terms expire May 23, 1994, the Governor shall appoint two (2) full-time members to serve terms which will expire June 30, 1995. Thereafter, appointments to these two (2) full-time terms shall be for four (4) years and shall be filled as provided for in subsection (3) of this section. The Governor may reappoint present members if they meet the qualifications set forth in subsection (1) of this section.~~

~~(7) The part-time members of the board, whose terms have not expired upon July 15, 2010, shall serve until their terms expire and may participate in considering the grant or revocation of parole at the request of the chairperson. No more than one (1) part-time Parole Board member shall serve on any panel of the board as set forth in subsection (4) of this section. The part-time Parole Board member called upon to serve shall be paid at a per diem rate equal to the per diem rate for the salary of a newly appointed full-time member and shall receive necessary travel expenses.~~

~~(8)]~~ The Office of Executive Director of the Parole Board is created. The office shall be headed by an executive director who shall be appointed by and directly responsible to the secretary of the Justice and Public Safety Cabinet in matters relating to administration. The executive director shall be responsible for the support services to the Parole Board in the area of financial, personnel, and facilities management; shall provide recommendations on administrative issues affecting the board to the secretary of the Justice and Public Safety Cabinet, the chairperson of the Parole Board, and Parole Board members; shall review and draft legislation and promulgate administrative regulations for the board; and shall review parole data and conduct long-range planning as relevant to the planning needs of the board.

➔Section 13. KRS 439.335 is amended to read as follows:

(1) In considering the granting of parole and the terms of parole, the parole board shall use the results from an inmate's validated risk and needs assessment and any other scientific means for personality analysis that may hereafter be developed**.**

(2) ***The department shall use the results from an inmate's validated risk and needs assessment and any other scientific means for personality analysis that may hereafter be developed***~~[,]~~ to define the ***level or***~~[terms and]~~ intensity of supervision ***for parole, and to establish any terms or conditions of supervision imposed by the department in accordance with the administrative regulations adopted by the department pursuant to KRS 439.470 or as otherwise authorized by law***~~[before granting parole]~~. The terms and intensity of supervision shall be based on an individual's level of risk to public safety, criminal risk factors, and the need for treatment and other interventions.

➔Section 14. KRS 439.3406 is amended to read as follows:

(1) The board shall order mandatory reentry supervision~~[and the terms of supervision, which may include electronic monitoring,]~~ for an inmate who has not been granted discretionary parole six (6) months prior to the inmate's minimum expiration of sentence.

(2) The provisions of subsection (1) of this section shall not apply to an inmate who:

(a) Is not eligible for parole by statute;

(b) Has been convicted of a capital offense or a Class A felony;

(c) Has a maximum or close security classification as defined by administrative regulations promulgated by the department;

(d) Has been sentenced to two (2) years or less of incarceration;

(e) Is subject to the provisions of KRS 532.043; or

(f) Has six (6) months or less to be served after his or her sentencing by a court or recommitment to prison for a violation of probation, shock probation, parole, or conditional discharge.

(3) An inmate granted mandatory reentry supervision pursuant to this section may be returned by the board to prison for violation of the conditions of supervision and shall not again be eligible for mandatory reentry supervision during the same period of incarceration.

(4) An inmate released to mandatory reentry supervision shall be considered to be released on parole.

(5) Mandatory reentry supervision is not a commutation of sentence or any other form of clemency.

(6) ***No hearing shall be required for the board to order an inmate to mandatory reentry supervision pursuant to subsection (1) of this section. Terms of supervision for inmates released on mandatory reentry supervision shall be established as follows:***

(a) The board shall adopt administrative regulations establishing general conditions applicable to each inmate ordered to mandatory reentry supervision pursuant to subsection (1) of this section. If an inmate is ordered to mandatory reentry supervision, the board's order shall set forth the general conditions and shall require the inmate to comply with the general conditions and any requirements imposed by the department in accordance with this section;

(b) Upon intake of an inmate ordered to mandatory reentry supervision by the board, the department shall use the results of the risk and needs assessment administered pursuant to KRS 439.3104(1) to establish appropriate terms and conditions of supervision, taking into consideration the level of risk to public safety, criminal risk factors, and the need for treatment and other interventions. The terms and conditions imposed by the department under this paragraph shall not conflict with the general conditions adopted by the board pursuant to paragraph (a) of this subsection; and

(c) The powers and duties assigned to the commissioner in relation to probation or parole under KRS 439.470 shall be assigned to the commissioner in relation to mandatory reentry supervision~~[The board shall consider an inmate's risk and needs assessment results when setting the terms and conditions of mandatory reentry supervision]~~.

(7) Subject to subsection (3) of this section, the period of mandatory reentry supervision shall conclude upon completion of the individual's minimum expiration of sentence.

(8) ***If the board issues a warrant for the arrest of an inmate for absconding from supervision during the mandatory reentry supervision period, and the inmate is subsequently returned to prison as a violator of conditions of supervision for absconding, the inmate shall not receive credit toward the remainder of his or her sentence for the time spent absconding.***

(9) The department shall report the results of the mandatory reentry supervision program to the Interim Joint Committee on Judiciary by February 1, 2015.

➔Section 15. KRS 441.420 is amended to read as follows:

(1) No political subdivision of this Commonwealth, combination of subdivisions, or regional jail authority shall build a new local correctional facility unless***:***

(a) The facility meets the approval or complies with the standards and administrative regulations of the department promulgated pursuant to KRS 441.055***;***

(b) The construction results in a new facility with:

1. A minimum capacity of one hundred fifty (150) prisoner beds; or

2. If a larger facility is needed, more than one hundred fifty (150) prisoner beds in fifty (50) bed increments; and

(c) Construction of the local correctional facility is approved by the construction authority.

(2) Final authority for approval of plans for the construction of a local correctional facility, or an addition to a local correctional facility shall rest with the construction authority.

(3) The department shall ***pay the design fees for architectural and engineering services associated with any new local correctional facility approved by the construction authority***~~[provide at no cost to a county, counties, or regional jail authority standard local correctional facility plans for the construction of local correctional facilities of one hundred (100), three hundred (300), and five hundred (500) bed capacity. The department shall provide plans for larger local correctional facilities in five hundred (500) bed increments at no cost to a regional jail authority, county, or counties]~~.

(4) The department may promulgate administrative regulations to create a fee schedule for architectural plans and architectural and engineering services required for the construction of local correctional facilities. A sample fee schedule for architectural plans and architectural and engineering services may be developed by a committee consisting of department personnel, architects, and construction managers.

➔Section 16. KRS 441.430 is amended to read as follows:

(1) Any political subdivision, or combination of subdivisions, desiring to build a local correctional facility shall make application, in writing, to the department and the construction authority for approval of the plans for the local correctional facility not less than ninety (90) days before the advertising for bids for construction of the facility, or if bids are not to be let, ninety (90) days before the construction commences.

(2) The department's jail consultants shall review the plans and within thirty (30) days of the department's receipt of the application, make a recommendation to the construction authority as to whether the plans should be approved. The construction authority shall make a decision within sixty (60) days after the department's jail consultants make their recommendation. The construction authority may delay a final decision on the construction of any new local correctional facility if the construction authority determines that it has insufficient information upon which to base a decision. If the construction authority determines that it has insufficient information upon which to base a decision, a final decision shall be delayed but shall be made within sixty (60) days after receipt of the information required by the construction authority. Construction shall not commence until the requisite approval is obtained.

(3) ~~[The construction authority shall not approve the construction of a new local correctional facility unless the proposed local correctional facility is built using plans supplied by the department. All local correctional facilities of the same inmate bed capacity shall be built using the same set of plans, which shall be suited to the type of facility being constructed pursuant to KRS 441.420.~~

~~(4)]~~The construction authority shall not approve the construction of a local correctional facility unless the political subdivision or combination of subdivisions desiring to build a local correctional facility proves to the satisfaction of the construction authority that:

(a) The construction of a new local correctional facility is necessary;

(b) The construction of a new local correctional facility with the number of beds proposed is necessary;

(c) The political subdivision or combination of political subdivisions has sufficient bonding and revenue sources to pay the bonded indebtedness of the proposed local correctional facility;

(d) The number and sources of prisoners for the local correctional facility is sufficient to maintain the financial viability of the local correctional facility;

(e) The projected operating costs for the local correctional facility are appropriate to maintain the financial viability of the local correctional facility;

(f) The sources of revenue are sufficient to pay, in addition to the bonded indebtedness, the operation costs and maintenance for the local correctional facility;

(g) If applicable, there are contracts or interlocal cooperation agreements specifying details for sharing the liability for the costs of paying the bonded indebtedness and the operation costs for the local correctional facility;

(h) If applicable, there are contracts or interlocal cooperation agreements specifying details for the management and operation of the local correctional facility; and

(i) All information has been provided that the construction authority required pursuant to administrative regulation.

➔Section 17. KRS 441.440 is amended to read as follows:

Except as provided in KRS 441.450,~~[all construction of]~~ local correctional facilities ***shall be constructed*** pursuant to ***the*** approved plans**,**~~[shall be done as provided under those plans]~~ and no alterations to the plans or construction shall be made unless prior approval is obtained from the construction authority upon recommendation of the department's jail consultants.

➔Section 18. KRS 441.450 is amended to read as follows:

(1) Any political subdivision, combination of subdivisions, or regional jail authority desiring to remodel or reconstruct an existing local correctional facility wherein the construction will involve physical change of the structure shall obtain the~~[requisite]~~ approvals required by KRS 441.420 to 441.440 and shall reconstruct or modify the~~[said]~~ local correctional facility in accordance with the approval.

(2) Except as provided in subsection (3) of this section, existing local correctional facilities may be renovated without the approval of the construction authority.~~[However, if the renovation includes an increase in the number of square footage of the local correctional facility to add prisoner bed space, that renovation shall be deemed an expansion which shall require the approval of the construction authority as provided in KRS 441.420 to 441.450.]~~

(3) ***(a) If the renovation includes an increase in the square footage of an existing local correctional facility to add prisoner bed space, that renovation shall be deemed an expansion and shall require the approval of the construction authority as provided in KRS 441.420 to 441.450.***

(b) If the renovation includes an increase in the square footage of~~[When an application is made to the construction authority to renovate]~~ an existing local correctional facility~~[by increasing the number of square feet in the local correctional facility]~~, the authority shall not approve the application unless the resulting renovation of the local correctional facility results in a facility with a bed capacity of one hundred ***fifty (150)***~~[(100)]~~ inmate beds or more.

➔Section 19. KRS 532.080 is amended to read as follows:

(1) When a defendant is found to be a persistent felony offender, the jury, in lieu of the sentence of imprisonment assessed under KRS 532.060 for the crime of which such person presently stands convicted, shall fix a sentence of imprisonment as authorized by subsection (5) or (6) of this section. When a defendant is charged with being a persistent felony offender, the determination of whether or not he is such an offender and the punishment to be imposed pursuant to subsection (5) or (6) of this section shall be determined in a separate proceeding from that proceeding which resulted in his last conviction. Such proceeding shall be conducted before the court sitting with the jury that found the defendant guilty of his most recent offense unless the court for good cause discharges that jury and impanels a new jury for that purpose.

(2) A persistent felony offender in the second degree is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of one (1) previous felony. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on the previous felony conviction within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

2. Was on probation, parole, postincarceration supervision, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation, parole, postincarceration supervision, conditional discharge, conditional release, or any other form of legal release on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.

(3) A persistent felony offender in the first degree is a person who is more than twenty-one (21) years of age and who stands convicted of a felony after having been convicted of two (2) or more felonies, or one (1) or more felony sex crimes against a minor as defined in KRS 17.500, and now stands convicted of any one (1) or more felonies. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one (1) year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen (18) years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on any of the previous felony convictions within five (5) years prior to the date of the commission of the felony for which he now stands convicted; or

2. Was on probation, parole, postincarceration supervision, conditional discharge, conditional release, furlough, appeal bond, or any other form of legal release from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation, parole, postincarceration supervision, conditional discharge, conditional release, or any other form of legal release on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

4. Was in custody from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

5. Had escaped from custody while serving any of the previous felony convictions at the time of commission of the felony for which he now stands convicted.

(4) For the purpose of determining whether a person has two (2) or more previous felony convictions, two (2) or more convictions of crime for which that person served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one (1) conviction, unless one (1) of the convictions was for an offense committed while that person was imprisoned.

(5) A person who is found to be a persistent felony offender in the second degree shall be sentenced to an indeterminate term of imprisonment pursuant to the sentencing provisions of KRS 532.060(2) for the next highest degree than the offense for which convicted. A person who is found to be a persistent felony offender in the second degree shall not be eligible for probation, shock probation, or conditional discharge, unless all offenses for which the person stands convicted are Class D felony offenses which do not involve a violent act against a person, in which case probation, shock probation, or conditional discharge may be granted. A violent offender who is found to be a persistent felony offender in the second degree shall not be eligible for parole except as provided in KRS 439.3401.

(6) A person who is found to be a persistent felony offender in the first degree shall be sentenced to imprisonment as follows:

(a) If the offense for which he presently stands convicted is a Class A or Class B felony, or if the person was previously convicted of one (1) or more sex crimes committed against a minor as defined in KRS 17.500 and presently stands convicted of a subsequent sex crime, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not

be less than twenty (20) years nor more than fifty (50) years, or life imprisonment, or life imprisonment without parole for twenty-five (25) years for a sex crime committed against a minor;

(b) If the offense for which he presently stands convicted is a Class C or Class D felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than ten (10) years nor more than twenty (20) years.

(7) A person who is found to be a persistent felony offender in the first degree shall not be eligible for probation, shock probation, or conditional discharge, unless all offenses for which the person stands convicted are Class D felony offenses which do not involve a violent act against a person or a sex crime as that term is defined in KRS 17.500, in which case, probation, shock probation, or conditional discharge may be granted. If the offense the person presently stands convicted of is a Class A, B, or C felony, the person shall not be eligible for parole until the person has served a minimum term of incarceration of not less than ten (10) years, unless another sentencing scheme applies. A violent offender who is found to be a persistent felony offender in the first degree shall not be eligible for parole except as provided in KRS 439.3401.

(8) ~~[(a) No conviction, plea of guilty, or Alford plea to a violation of KRS 218A.500 shall bring a defendant within the purview of or be used as a conviction eligible for making a person a persistent felony offender under this section.~~

~~(b)]~~A conviction, plea of guilty, or Alford plea under KRS 218A.1415 shall not trigger the application of this section, regardless of the number or type of prior felony convictions that may have been entered against the defendant. A conviction, plea of guilty, or Alford plea under KRS 218A.1415 may be used as a prior felony offense allowing this section to be applied if he or she is subsequently convicted of a different felony offense.

(9) The provisions of this section amended by 1994 Ky. Acts ch. 396, sec. 11, shall be retroactive.

(10) (a) Except as provided in paragraph (b) of this subsection, this section shall not apply to a person convicted of a criminal offense if the penalty for that offense was increased from a misdemeanor to a felony, or from a lower felony classification to a higher felony classification, because the conviction constituted a second or subsequent violation of that offense.

(b) This subsection shall not prohibit the application of this section to a person convicted of:

1. A felony offense arising out of KRS 189A.010, 189A.090, 506.140, 508.032, 508.140, or 510.015; or

2. Any other felony offense if the penalty was not enhanced to a higher level because the Commonwealth elected to prosecute the person as a first-time violator of that offense.

➔Section 20. KRS 196.111 is amended to read as follows:

(1) As used in this section, "evidence-based practices" means supervision policies, procedures, treatment and intervention programs, and practices that scientific research demonstrates reduce recidivism among inmates and individuals on probation, parole, or other form of post-release supervision when implemented competently.

(2) In order to increase the effectiveness of treatment and intervention programs funded by the state and provided by the department for inmates, probationers, and parolees, the department shall require that such programs use evidence-based practices.

(3) The department shall measure the effectiveness of each treatment and intervention program and demonstrate that the program has a documented evidence base and has been evaluated for effectiveness in reducing recidivism.

(4) The department shall promulgate administrative regulations to provide, at a minimum:

(a) A process for reviewing the objective criteria for evidence-based practices established by the agency providing the program;

(b) A process for auditing the effectiveness of the program;

(c) An opportunity for programs that do not meet the criteria based on the audit results to improve performance; and

(d) A mechanism to defund any program that does not meet the criteria upon a second audit.

(5) Beginning July 1, 2012, twenty-five percent (25%) of state moneys expended on programs shall be for programs that are in accordance with evidence-based practices. Beginning July 1, 2014, fifty percent (50%) of state moneys expended on programs shall be for programs that are in accordance with evidence-based practices. Beginning July 1, 2016, and thereafter, seventy-five percent (75%) of state moneys expended on programs shall be for programs that are in accordance with evidence-based practices.

(6) By fiscal year ***2016-2017*** ~~[2015-2016]~~, the department shall eliminate supervision policies, procedures, programs, and practices intended to reduce recidivism that scientific research demonstrates do not reduce recidivism. However, the department may utilize a new supervision policy, procedure, program, or practice if the department determines that the new supervision policy, procedure, program, or practice has the potential for qualifying as an evidence-based practice after more scientific research is conducted.

➔Section 21. KRS 6.949 is amended to read as follows:

(1) Any bill, amendment, or committee substitute that creates a new crime, increases the penalty for an existing crime, decreases the penalty for an existing crime, changes the elements of the offense for an existing crime, repeals an existing crime, or proposes to increase, decrease, or otherwise impact incarceration shall be identified by ***the staff of the Legislative Research Commission*** ~~[the drafter]~~ as having a corrections impact on a "Corrections Impact Statement" form specified by the Legislative Research Commission.

(2) ~~[Any bill, amendment, or committee substitute which permits a state agency to do any of the acts specified in subsection (1) of this section, even if the action is termed a regulatory offense by administrative regulation, shall be identified by the drafter as having a corrections impact in the manner specified in subsection (1) of this section.~~

~~(3) Any bill, amendment, or committee substitute that permits a city, county, urban-county, charter county, consolidated local government, special district, or any other subdivision of local government to do any of the acts specified in subsection (1) of this section by ordinance or any other form of action shall be identified by the drafter as having a corrections impact in the manner specified in subsection (1) of this section.~~

~~(4)]~~***If a*** ~~[The drafter of any]~~ bill, amendment, or committee substitute ***is*** identified as having a corrections impact under ***subsection*** ~~[subsections]~~ (1)~~[to (3)]~~ of this section***, the staff of the Legislative Research Commission*** shall notify the sponsor of the bill, amendment, or committee substitute that a corrections impact is required.

(3) ~~[(5)]~~ If a bill, amendment, or committee substitute is identified as having a corrections impact, a "Corrections Impact Statement" shall be prepared by the staff of the Department of Corrections with the assistance of the Department of Kentucky State Police, Administrative Office of the Courts, Parole Board, and other persons, agencies, or organizations deemed necessary by the Department of Corrections staff assigned to prepare the corrections impact statement. The Department of Kentucky State Police, Administrative Office of the Courts, Parole Board, and other persons, agencies, and organizations that have been requested to provide information for the corrections impact statement shall do so within the period of time specified by the Department of Corrections staff person requesting the information, which in no case shall exceed two (2) business days unless an extension is granted by the requesting staff person.

(4) ~~[(6)]~~ The corrections impact statement shall contain the estimated costs, estimated savings, and necessary appropriations based upon:

(a) Incarceration in jail prior to trial and during trial based on the available information about persons granted bail or other form of pretrial release and the length of time spent in jail prior to release;

(b) Supervision of a person who has been granted bail or pretrial release based on the average time spent between the time of release until the time of trial for the offense;

(c) Incarceration in jail for a misdemeanor following conviction based on the maximum time of incarceration authorized for the offense;

(d) Incarceration in a state correctional facility for a capital offense, or felony offense based on the maximum and minimum length of incarceration authorized for the offense, except for offenses in which incarceration in a county jail for a Class D felony is required;

(e) Incarceration in a county jail for a Class D felony for which incarceration in a county jail is authorized based on the maximum and minimum sentence of incarceration authorized for a Class D felony;

(f) Probation or conditional discharge supervision based on the maximum time of probation or conditional discharge authorized for the offense;

(g) Parole supervision based on the average length of parole supervision authorized for the offense assuming full parole supervision; and

(h) Mandated treatment, education, and other programs which are to be paid by the state, unit of local government, or public agency based on the number of persons anticipated to be required to complete the program if the education, treatment, or other program is not normally offered as a part of a defendant's incarceration and is required to be completed outside of a correctional facility.

(5) ~~[(7)]~~ Insofar as possible, costs and savings for a change to an existing crime shall be calculated using:

(a) Arrest data for the crime from the Department of Kentucky State Police;

(b) Pretrial incarceration data from the Administrative Office of the Courts;

(c) Preconviction jail data from the Administrative Office of the Courts;

(d) Conviction data from the Administrative Office of the Courts;

(e) Postconviction jail and imprisonment data from the Department of Corrections;

(f) Probation and parole data from the Department of Corrections; and

(g) Data from applicable agencies or organizations providing treatment, education, or other mandated programs.

(6) ~~[(8)]~~ Insofar as possible, costs or savings for a new crime shall be calculated in the same manner as specified in subsection ***(5)*** ~~[(7)]~~ of this section using data for similar crimes unless that is determined by the Department of Corrections staff person to be impractical or impossible in which case the estimate for a new crime may be prepared using:

(a) The maximum and minimum length of incarceration for the offense;

(b) An estimate of cost based on ten (10) persons being charged with the offense, and based on one hundred (100) persons being charged with the offense;

(c) An estimate of cost based on ten (10) persons and one hundred (100) persons being convicted of the offense and sent to jail if the offense is a misdemeanor using the criteria specified in subsection ***(7)*** ~~[(9)]~~ of this section; and

(d) An estimate of cost based on ten (10) persons and one hundred (100) persons being convicted of a felony offense requiring imprisonment in a state-operated correctional facility unless the offense is a Class D felony for which imprisonment in a county jail is required in which case the cost shall be based on the amount paid by the Department of Corrections for a person incarcerated in a county jail for a Class D felony.

(7) ~~[(9)]~~ Costs or savings shall be based on the average costs actually paid by the Department of Corrections during the previous fiscal year for incarceration of a person in a state correctional facility, the average cost for supervision of a person placed on probation without electronic monitoring, the average cost of a person placed on probation with electronic monitoring, the average cost of parole supervision without electronic monitoring, and the average cost of parole supervision with electronic monitoring.

~~[(10) The sponsor of any bill or amendment or sponsor of a proposed committee substitute adopted by a committee that is identified as having a corrections impact shall identify in writing where the funds to pay for additional costs of the proposal will come from either by reducing other expenditures, additional revenues, or otherwise. The sponsor's statement shall be included with the corrections impact.]~~

(8) ~~[(11)]~~ If an amendment to a bill is combined into a committee substitute or a GA version of the bill is created incorporating a floor amendment, a new corrections impact statement shall be prepared combining the information in the original bill as modified by the amendment.

~~[(12) A bill, amendment, or committee substitute shall not be considered for final passage unless the corrections impact and latest revised corrections impact, if required, has been made available to the members of the House of Representatives or the Senate, as appropriate, on the day prior to the day the bill, amendment, or committee substitute is to be voted on for final passage.]~~

➔Section 22. The Criminal Justice Council shall oversee the implementation of the provisions in the Public Safety and Offender Accountability Act, 2011 Ky. Acts ch. 2, and coordinate efforts among the various stakeholders within the criminal justice system to prepare a comprehensive state plan to provide for the full and proper

implementation of the provisions in that Act. By October 1 of each year, beginning in 2012, the Criminal Justice Council shall submit to the Interim Joint Committees on Judiciary a comprehensive report on the implementation of the Public Safety and Offender Accountability Act's provisions within the various elements of the criminal justice system and make recommendations that will further advance the policies within that Act.

➔Section 23. KRS 202A.410 is amended to read as follows:

(1) When a patient who has been involuntarily committed to a psychiatric facility or forensic psychiatric facility and who has been charged with or convicted of a violent crime as defined in KRS 439.3401 is discharged or transferred from the facility, the administrator shall notify the law enforcement agency in the county to which the person is to be released, the prosecutor in the county where the violent crime was committed, and the Department of Corrections.

(2) If a patient who has been involuntarily committed to a psychiatric facility or forensic psychiatric facility and who has been charged with or convicted of a violent crime as defined in KRS 439.3401 escapes from the facility, the administrator shall notify the law enforcement agency in the county in which the facility is located, the prosecutor in the county where the violent crime was committed, and the Department of Corrections.

(3) The administrator of a psychiatric facility or forensic psychiatric facility, or the administrator's designee, who acts in good faith in making the notifications required in this section or is unable to provide the release information required, is immune from any civil liability.

(4) The Department of Corrections shall notify, or contract with a private entity to notify, victims of crime***, judges, and witnesses involved in the hearing that resulted in the involuntary commitment*** who have made a notification request of the discharge or escape of a patient from a psychiatric facility or forensic psychiatric facility.

(5) The Department of Corrections and the Cabinet for Health and Family Services shall each promulgate administrative regulations under KRS Chapter 13A to carry out the duties set forth in this statute.

➔SECTION 24. A NEW SECTION OF KRS 532.200 TO 532.250 IS CREATED TO READ AS FOLLOWS:

(1) Time spent in pretrial home incarceration pursuant to KRS 431.517 shall be credited against the maximum term of imprisonment assessed to the defendant upon conviction. Time credited under this section shall be calculated in accordance with Section 25 of this Act.

(2) Violation of the terms of pretrial home incarceration shall be deemed an interruption of the defendant's home incarceration. The interruption shall begin at the time of the violation and shall continue until a court revokes home incarceration or otherwise acts on the violation. Time spent in pretrial home incarceration prior to the violation shall be credited against the maximum term of imprisonment assessed to the defendant upon conviction for the original charge.

(3) This section shall apply to defendants sentenced on or after the effective date of this Act.

➔Section 25. KRS 532.120 is amended to read as follows:

(1) An indeterminate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the Department of Corrections. When a person is under more than one (1) indeterminate sentence, the sentences shall be calculated as follows:

(a) If the sentences run concurrently, the maximum terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or

(b) If the sentences run consecutively, the maximum terms are added to arrive at an aggregate maximum term equal to the sum of all the maximum terms.

(2) A definite sentence of imprisonment commences when the prisoner is received in the institution named in the commitment. When a person is under more than one (1) definite sentence, the sentences shall be calculated as follows:

(a) If the sentences run concurrently, the terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or

(b) If the sentences run consecutively, the terms are added to arrive at an aggregate term and are satisfied by discharge of the aggregate term.

(3) Time spent in custody prior to the commencement of a sentence as a result of the charge that culminated in the sentence shall be credited by the Department of Corrections toward service of the maximum term of imprisonment in cases involving a felony sentence and by the sentencing court in all other cases. If the sentence is to an indeterminate term of imprisonment, the time spent in custody prior to the commencement of the sentence shall be considered for all purposes as time served in prison.

(4) If a person has been in custody due to a charge that culminated in a dismissal, acquittal, or other disposition not amounting to a conviction, the amount of time that would have been credited under subsection (3) of this section if the defendant had been convicted of that charge shall be credited as provided in subsection (3) of this section against any sentence based on a charge for which a warrant or commitment was lodged during the pendency of that custody.

(5) If a person serving a sentence of imprisonment escapes from custody, the escape shall interrupt the sentence. The interruption shall continue until the person is returned to the institution from which he escaped or to an institution administered by the Department of Corrections. Time spent in actual custody prior to return under this subsection shall be credited against the sentence if custody rested solely on an arrest or surrender for the escape itself.

(6) As used in subsections (3) and (4) of this section, time spent in custody shall include time spent in the intensive secured substance abuse recovery program developed under KRS 196.285 and may include, at the discretion of the sentencing court, time spent in a different residential substance abuse treatment or recovery facility pursuant to KRS 431.518 or 533.251, if under each option allowed by this subsection, the person has successfully completed the program offered by the intensive secured substance abuse recovery program or the residential substance abuse treatment or recovery facility. If the defendant fails to complete a program, the court may still award full or partial sentence credit if the defendant demonstrates that good cause existed for the failure to complete the program.

(7) ***As used in subsections (3) and (4) of this section, time spent in custody shall include time spent in pretrial home incarceration pursuant to KRS 431.517, subject to the conditions imposed by Section 24 of this Act.***

(8) In lieu of an award by the Department of Corrections in felony cases, if a presentence report indicates that a defendant has accumulated sufficient sentencing credits under this section to allow for an immediate discharge from confinement upon pronouncement of sentence, the court may confirm the amount of the credit and award the credit at pronouncement.

(9)~~[(8)]~~ An inmate may challenge a failure of the Department of Corrections to award a sentencing credit under this section or the amount of credit awarded by motion made in the sentencing court no later than thirty (30) days after the inmate has exhausted his or her administrative remedies.

Signed by Governor April 23, 2012.