

CHAPTER 116

(HB 299)

AN ACT relating to sentencing credits.

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

➔Section 1. KRS 197.010 is amended to read as follows:

Definitions as used in this chapter, unless the context otherwise requires:

- (1) "Cabinet" means the Justice and Public Safety Cabinet;
- (2) "Classification" means the systematic assignment of a prisoner to a custody level, program, and penitentiary;
- (3) "Department" means Department of Corrections;
- (4) "Eligible sexual offender" means a sexual offender for whom the sentencing court, department officials, or both have determined that he or she:
 - (a) Has demonstrated evidence of a mental, emotional, or behavioral disorder, but not active psychosis or an intellectual disability; and
 - (b) Is likely to benefit from the program;
- (5) **"Life skills program" means a program that provides strategies for offenders to assist in removing barriers to successful reintegration into the community and addresses skill areas including time management, money management, use of technology, communication, and social skills;**
- (6) "Penitentiaries" includes the state penal institutions for males at Eddyville, LaGrange, the Green River Correctional Complex, the Luther Lockett Correctional Complex, the Kentucky Correctional Institute for Women, the Northpoint Training Center, the Roederer Correctional Complex, the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex, Frankfort Career Development Center, Blackburn Correctional Complex, and Bell County Forestry Camp, together with the branches thereof, any private prison as provided by KRS 197.500, and any other similar institutions hereafter established;
- (7) **"Promising practices" means programs and strategies that have some research or data showing positive outcomes, but do not have enough evidence yet to meet the standard of an evidence-based program;**
- ~~(8)(6)~~ "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in KRS 17.500; and
- ~~(9)(7)~~ "State agency" means any department, board, commission, or agency of the state government.

➔Section 2. KRS 197.045 is amended to read as follows:

- (1) Any person convicted and sentenced to a state penal institution:
 - (a) Shall receive a credit on his or her sentence for:
 1. Prior confinement as specified in KRS 532.120;
 2. Successfully receiving a High School Equivalency Diploma or a high school diploma, a ~~two (2) or four (4) year~~ college degree, ~~a two (2) year or four (4) year degree in applied sciences,~~ a completed **vocational or** technical education program, or ~~a~~ ~~an online or~~ correspondence **postsecondary** education program **which results in a diploma or degree,** ~~each~~ as provided, ~~and~~ defined, **and approved** by the department, ~~or a civics education program that requires passing a final exam,~~ in the amount of ninety (90) days per diploma, degree, or technical education program completed; ~~and~~
 3. Successfully completing a drug treatment program, ~~or other~~ evidence-based program, **or any other promising practice or life skills program** approved by the department, in the amount of not more than ninety (90) days for each program completed. **The department shall determine criteria to establish whether a life skills or promising practice program is eligible for sentence credits. Programs shall demonstrate learning of skills necessary for reintegration into the**

community to minimize barriers to successful reentry. Approval of programs shall be subject to review by the cabinet; and

- (b) May receive a credit on his or her sentence for:
 - 1. Good behavior in an amount not exceeding ten (10) days for each month served, to be determined by the department from the conduct of the prisoner;
 - 2. Performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations and programs, awarded at the discretion of the commissioner in an amount not to exceed seven (7) days per month; and
 - 3. Acts of exceptional service during times of emergency, awarded at the discretion of the commissioner in an amount not to exceed seven (7) days per month.
- (2) Except for a sentencing credit awarded for prior confinement, the department may forfeit any sentencing credit awarded under subsection (1) of this section previously earned by the prisoner or deny the prisoner the right to earn future sentencing credit in any amount if during the term of imprisonment, a prisoner commits any offense or violates the rules of the institution.
- (3) When two (2) or more consecutive sentences are to be served, the several sentences shall be merged and served in the aggregate for the purposes of the sentencing credit computation or in computing dates of expiration of sentence.
- (4) Until successful completion of the sex offender treatment program, an eligible sexual offender may earn sentencing credit. However, the sentencing credit shall not be credited to the eligible sexual offender's sentence. Upon the successful completion of the sex offender treatment program, as determined by the program director, the offender shall be eligible for all sentencing credit earned but not otherwise forfeited under administrative regulations promulgated by the Department of Corrections. After successful completion of the sex offender treatment program, an eligible sexual offender may continue to earn sentencing credit in the manner provided by administrative regulations promulgated by the Department of Corrections. Any eligible sexual offender, as defined in KRS 197.410, who has not successfully completed the sex offender treatment program as determined by the program director shall not be entitled to the benefit of any credit on his or her sentence. A sexual offender who does not complete the sex offender treatment program for any reason shall serve his or her entire sentence without benefit of sentencing credit, parole, or other form of early release. The provisions of this section shall not apply to any sexual offender convicted before July 15, 1998, or to any sexual offender with an intellectual disability.
- (5)
 - (a) The Department of Corrections shall, by administrative regulation, specify the length of forfeiture of sentencing credit and the ability to earn sentencing credit in the future for those inmates who have civil actions dismissed because the court found the action to be malicious, harassing, or factually frivolous.
 - (b) Penalties set by administrative regulation pursuant to this subsection shall be as uniform as practicable throughout all institutions operated by, under contract to, or under the control of the department and shall specify a specific number of days or months of sentencing credit forfeited as well as any prohibition imposed on the future earning of sentencing credit.
- (6) The provisions in subsection (1)(a)2. of this section shall apply retroactively to July 15, 2011.

Signed by Governor March 26, 2019.