

## CHAPTER 182

( HB 497 )

AN ACT relating to persons convicted of crimes.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

- (1) *When a prisoner is released, the department shall issue to that prisoner, with the prisoner's consent, documents regarding all of the following:*
  - (a) *The prisoner's criminal history in Kentucky;*
  - (b) *The prisoner's institutional history, including all of the following:*
    1. *Any record of major disciplinary violations;*
    2. *Whether the prisoner successfully completed programming approved by the department;*
    3. *Whether the prisoner obtained a high school equivalency diploma or other educational degree prior to incarceration, to the extent known or verifiable by the department;*
    4. *Whether the prisoner obtained a high school equivalency diploma or other educational degree while incarcerated;*
    5. *The prisoner's work record prior to incarceration, including past employment and skills, to the extent known or verifiable by the department, and to the extent the department is technologically capable of providing this information; and*
    6. *The prisoner's institutional work record, including skills obtained through any job training or programming provided by the department; and*
  - (c) *Other information considered relevant by the department.*
- (2) *When a prisoner is released, the department may, in conjunction with the Transportation Cabinet, issue to that prisoner an operator's license or personal identification card that is a voluntary travel ID document pursuant to KRS 186.417.*
- (3) *In addition to the documents provided under subsections (1) and (2) of this section, the department shall issue a certificate of employability to a prisoner if all of the following apply:*
  - (a) *The prisoner achieved one (1) or both of the following:*
    1. *While incarcerated, successfully earned one (1) or more of the following:*
      - a. *An educational credit pursuant to KRS 197.045(1)(a)2.;*
      - b. *A program completion credit pursuant to KRS 197.045(1)(a)3.; or*
      - c. *A work-for-time credit pursuant to KRS 197.047; or*
    2. *Prior to incarceration, earned a High School Equivalency Diploma, a high school diploma, a college degree, certification from a vocational or technical education program that the program was completed, or a diploma or degree from a correspondence postsecondary education program approved by the department;*
  - (b) *The prisoner received no major disciplinary violations during the year immediately preceding his or her release; and*
  - (c) *The prisoner received a score or level of competence as determined by the department on a job skills assessment test administered by the department or jail.*
- (4) *A certificate of employability issued pursuant to subsection (3) of this section shall:*
  - (a) *Be issued to the prisoner when he or she is released from a correctional facility;*
  - (b) *Be on a form provided by the department;*

- (c) *Be valid unless revoked by the department; and*
- (d) *Not create relief from:*
  - 1. *A requirement to register as a sex offender under KRS 17.510;*
  - 2. *A driver's license, commercial driver's license, or probationary license suspension, cancellation, or revocation;*
  - 3. *A restriction on employment as a prosecutor or law enforcement officer; or*
  - 4. *The denial, ineligibility, or automatic suspension of a health care professional's license due to a substance use disorder.*
- (5) (a) *The department shall revoke the certificate of employability provided under this section of any individual who is convicted of a felony after receiving a certificate of employability.*
- (b) *The department shall provide an individual whose certificate of employability has been revoked under this subsection an opportunity to file a grievance through the department's prisoner grievance system. The revocation of a certificate of employability is effective when the individual is notified of the revocation.*
- (c) *The revocation of a certificate of employability does not affect the right of an employer to rely on the validity of the certificate of employability unless the employer knew before the individual was employed that the certificate of employability was fraudulent.*
- (6) *An individual shall not intentionally state or otherwise represent that he or she has a valid certificate of employability issued by the department knowing that the statement or representation is false. An individual who violates this subsection shall be guilty of a Class B misdemeanor.*
- (7) *Upon request, the department shall confirm whether a certificate of employability has been issued to a named individual and whether the certificate is valid at the time of the inquiry and at the time of the department's response to that inquiry.*
- (8) *The department is not civilly liable for damages based upon its decision to issue or deny issuance of a certificate of employability to any prisoner or for revoking or failing to revoke a certificate of employability issued to any prisoner.*
- (9) (a) *In a judicial or administrative proceeding alleging negligence or other fault, a certificate of employability issued to an individual under this section may be introduced as evidence of a person's due care in hiring, retaining, licensing, leasing to, admitting to a school or program, or otherwise transacting business or engaging in activity with the individual to whom the certificate of employability was issued if the person knew of the certificate at the time of the alleged negligence or other fault.*
- (b) *In any proceeding on a claim against an employer for negligent hiring, a certificate of employability issued to an individual under this section may be a defense for the employer as to the claim if the employer knew of the certificate at the time of the alleged negligence, except in cases where the employer knew or should have known the employee should not be hired for the position due to the nature of his or her history, including criminal history.*
- (10) *The department shall notify incoming prisoners of the possibility to earn a certificate of employability.*
- (11) *The department shall submit an annual report no later than September 1 of each year to the Governor and the General Assembly, which shall include the number of certificates of employability issued in the preceding twelve (12) months, the rate of recidivism among released prisoners previously issued certificates of employability, and any other information the department deems appropriate to include.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

*As part of a life skills program that includes curriculum on employment provided to prisoners, the department shall assist prisoners in preparing and writing resumes summarizing their past employment and skills. The department shall assist prisoners in obtaining records or other documents necessary for this purpose.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

*In the event that the cabinet seeks and receives approval of a Medicaid Section 1115 waiver under 42 U.S.C. sec. 1315 for the purpose of providing Medicaid coverage to prisoners thirty (30) days prior to their release, the cabinet shall prioritize provision of such coverage.*

➔ Section 4. KRS 205.2005 is amended to read as follows:

*Pursuant to 21 U.S.C. sec. 862a(d)(1), all individuals residing in Kentucky shall be exempt from the application of 21 U.S.C. sec. 862a(a)*~~[Any public assistance recipient under Title IV of the Federal Social Security Act and any federal food stamp program recipient who has been convicted of a drug felony after August 22, 1996, may remain eligible for the program benefits if the recipient has been assessed as chemically dependent and is participating in or has successfully completed a chemical dependency treatment program or is pregnant, and the recipient is otherwise eligible].~~

**Signed by Governor April 5, 2021.**