

CHAPTER 109

(SB 80)

AN ACT relating to public safety.

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

➔Section 1. KRS 17.545 is amended to read as follows:

- (1) No registrant, as defined in KRS 17.500, shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned or leased playground, or licensed day care facility. The measurement shall be taken in a straight line from the nearest property line to the nearest property line of the registrant's place of residence.
- (2) (a) No registrant, as defined in KRS 17.500, nor any person residing outside of Kentucky who would be required to register under KRS 17.510 if the person resided in Kentucky, shall be on, ***loiter within one thousand (1,000) feet of, or work in or operate any mobile business within one thousand (1,000) feet of*** the clearly defined grounds of a high school, middle school, elementary school, preschool, publicly owned or leased playground, ~~for~~ licensed day care facility, ***publicly owned or leased swimming pool, or splash pad as defined in KRS 211.205***, except with the advance written permission of the school principal, the school board, the local legislative body with jurisdiction over the publicly owned or leased playground, ***publicly owned or leased swimming pool, or splash pad***, or the day care director that has been given after full disclosure of the person's status as a registrant or sex offender from another state and all registrant information as required in KRS 17.500.
 - (b) As used in this subsection:~~;~~
 1. "Local legislative body" means the chief governing body of a city, county, urban-county government, consolidated local government, charter county government, or unified local government that has legislative powers;
 2. "***Loiter***" includes remaining in or about the clearly defined grounds of a location described in paragraph (a) of this subsection, while not having any reason or relationship involving custody of or responsibility for a minor or any other specific legitimate reason for being there; and
 3. "***Mobile business***" means any business that operates from a motor vehicle or wheeled cart that can be operated, pushed, or pulled on a sidewalk, street, or highway where food, goods, or services are prepared, processed, or sold or dispensed to the public.
 - (c) ***The measurement in paragraph (a) of this subsection shall be taken in a straight line from the nearest property line.***
- (3) For purposes of this section:
 - (a) The registrant shall have the duty to ascertain whether any property listed in subsection (1) of this section is within one thousand (1,000) feet of the registrant's residence; and
 - (b) If a new facility opens, the registrant shall be presumed to know and, within ninety (90) days, shall comply with this section.
- (4) (a) Except as provided in paragraph (b) of this subsection, no registrant who is eighteen (18) years of age or older and has committed a criminal offense against a victim who is a minor shall have the same residence as a minor.
 - (b) A registrant who is eighteen (18) years of age or older and has committed a criminal offense against a victim who is a minor may have the same residence as a minor if the registrant is the spouse, parent, grandparent, stepparent, sibling, stepsibling, or court-appointed guardian of the minor, unless the spouse, child, grandchild, stepchild, sibling, stepsibling, or ward was a victim of the registrant.
 - (c) This subsection shall not operate retroactively and shall apply only to a registrant that committed a criminal offense against a victim who is a minor after July 14, 2018.
- (5) Any person who violates subsection (1) or (4) of this section shall be guilty of:

- (a) A Class A misdemeanor for a first offense; and
 - (b) A Class D felony for the second and each subsequent offense.
- (6) Any registrant residing within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned playground, or licensed day care facility on July 12, 2006, shall move and comply with this section within ninety (90) days of July 12, 2006, and thereafter, shall be subject to the penalties set forth under subsection (5) of this section.
- (7) The prohibition against a registrant:
- (a) Residing within one thousand (1,000) feet of a publicly leased playground as outlined in subsection (1) of this section; or
 - (b) Being on the grounds of a publicly leased playground as outlined in subsection (2) of this section;
- shall not operate retroactively.
- (8) *The prohibition against a registrant loitering or working in or operating any mobile business within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned or leased playground, licensed day care facility, publicly owned or leased swimming pool, or splash pad as defined in KRS 211.205 shall not operate retroactively.*
- (9) This section shall not apply to a youthful offender probated or paroled during his or her minority or while enrolled in an elementary or secondary education program.

➔Section 2. KRS 17.510 is amended to read as follows:

- (1) The cabinet shall develop and implement a registration system for registrants which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.
- (2) A registrant shall, on or before the date of his or her release by the court, the parole board, the cabinet, or any detention facility, register with the appropriate local probation and parole office in the county in which he or she intends to reside. The person in charge of the release shall facilitate the registration process.
- (3) Any person required to register pursuant to subsection (2) of this section shall be informed of the duty to register by the court at the time of sentencing if the court grants probation or conditional discharge or does not impose a penalty of incarceration, or if incarcerated, by the official in charge of the place of confinement upon release. The court and the official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register has been explained to the person. The court and the official in charge of the place of confinement shall require the releasee to complete the acknowledgment form and the court or the official shall retain the original completed form. The official shall then send the form to the **Sex Offender Registry Section**~~Information Services Center~~, Department of Kentucky State Police, Frankfort, Kentucky 40601.
- (4) The court or the official shall order the person to register with the appropriate local probation and parole office which shall obtain the person's fingerprints, palm prints, DNA sample, photograph, and a copy of his or her motor vehicle operator's license as well as any other government-issued identification cards, if any. Thereafter, the registrant shall return to the appropriate local probation and parole office not less than one (1) time every two (2) years in order for a new photograph to be obtained, and the registrant shall pay the cost of updating the photo for registration purposes. Any registrant who has not provided palm prints, a copy of his or her motor vehicle operator's license, or a copy of any other government-issued identification cards, if any, as of July 14, 2018, shall provide the information to the appropriate local probation and parole office when the registrant appears for a new photograph to be obtained. Any change to a registrant's motor vehicle operator's license number or any other government-issued identification card after the registrant appears for a new photograph shall be registered in accordance with subsection ~~(11)~~~~(10)~~ of this section. Failure to comply with this requirement shall be punished as set forth in subsection ~~(12)~~~~(11)~~ of this section.
- (5) (a) The appropriate probation and parole office shall send the registration form containing the registrant information, fingerprints, palm prints, photograph, and a copy of his or her motor vehicle operator's license as well as any other government-issued identification cards, if any, and any special conditions imposed by the court or the Parole Board, to the **Sex Offender Registry Section**~~Information Services Center~~, Department of Kentucky State Police, Frankfort, Kentucky 40601. The appropriate probation and parole office shall send the DNA sample to the Department of Kentucky State Police forensic laboratory in accordance with administrative regulations promulgated by the cabinet.

- (b) The ***Sex Offender Registry Section*** ~~Information Services Center~~, upon request by a state or local law enforcement agency, shall make available to that agency registrant information, including a person's fingerprints and photograph, where available, as well as any special conditions imposed by the court or the Parole Board.
- (c) Any employee of the Justice and Public Safety Cabinet who disseminates, or does not disseminate, registrant information in good-faith compliance with the requirements of this subsection shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (6) (a) Except as provided in paragraph (b) of this subsection, any person who has been convicted in a court of any state or territory, a court of the United States, or a similar conviction from a court of competent jurisdiction in any other country, or a court martial of the United States Armed Forces of a sex crime or criminal offense against a victim who is a minor and who has been notified of the duty to register by that state, territory, or court, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws, or has a similar conviction from a court of competent jurisdiction in any other country, shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register with the appropriate local probation and parole office in the county of residence within five (5) working days of relocation. No additional notice of the duty to register shall be required of any official charged with a duty of enforcing the laws of this Commonwealth.
- (b) No person shall be required to register under this subsection for a juvenile adjudication if such an adjudication in this Commonwealth would not create a duty to register. This paragraph shall be retroactive.
- (7) (a) Except as provided in paragraph (b) of this subsection, if a person is required to register under federal law or the laws of another state or territory, or if the person has been convicted of an offense in a court of the United States, in a court martial of the United States Armed Forces, or under the laws of another state or territory that would require registration if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register within five (5) working days with the appropriate local probation and parole office in the county of residence, employment, vocation, or schooling. A person required to register under federal law or the laws of another state or territory shall be presumed to know of the duty to register in the Commonwealth. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.
- (b) No person shall be required to register under this subsection for a juvenile adjudication if such an adjudication in this Commonwealth would not create a duty to register. This paragraph shall be retroactive.
- (8) The registration form shall be a written statement signed by the person which shall include registrant information, including an up-to-date photograph of the registrant for public dissemination.
- (9) For purposes of KRS 17.500 to 17.580 and 17.991, a post office box number shall not be considered an address.
- (10) (a) ***If a registrant does not have an established and fixed residence of regular return, he or she shall report in person no less than every thirty (30) days to the local probation and parole office in the county in which he or she is present and register the approximate area where he or she can be located.***
- (b) ***If the registrant changes his or her location to a new county, the person shall notify his or her current local probation and parole office of the new location on or before the date of the change of location.***

- (c) *The registrant shall also report in person to the appropriate local probation and parole office in the county of his or her new location no later than five (5) working days after the date of the change of location.*
- (11) (a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register, on or before the date of the change of address, with the appropriate local probation and parole office in the county in which he or she resides.
- (b) 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.
2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) working days after the date of the change of address.
- (c) If the:
1. Motor vehicle operator's license number or any other government-issued identification card number of any registrant changes; or
2. Registrant obtains for the first time a motor vehicle operator's license number or any other government-issued identification card number;
- the registrant shall register the change or addition no later than five (5) working days after the date of the change or the date of the addition, with the appropriate local probation and parole office in the county in which he or she resides.
- (d) 1. As soon as a probation and parole office learns of the person's new address under paragraph (b)1. of this subsection, that probation and parole office shall notify the appropriate local probation and parole office in the county of the new address of the effective date of the new address.
2. As soon as a probation and parole office learns of the person's new address under paragraph (b)2. of this subsection, that office shall forward this information as set forth under subsection (5) of this section.
- (e) 1. A registrant shall register the following information with the appropriate local probation and parole office no less than twenty-one (21) days before traveling outside of the United States:
- a. His or her passport number and country of issue;
- b. The dates of departure, travel, and return; and
- c. The foreign countries, colonies, territories, or possessions that the registrant will visit.
2. The registrant shall register the following information with the appropriate local probation and parole office no later than five (5) working days after the date of his or her return from traveling outside of the United States:
- a. The date he or she departed, traveled, and returned; and
- b. The foreign countries, colonies, territories, or possessions that the registrant visited.
- ~~(12)~~~~(11)~~ Any person required to register under this section who knowingly violates any of the provisions of this section or prior law is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
- ~~(13)~~~~(12)~~ Any person required to register under this section or prior law who knowingly provides false, misleading, or incomplete information is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
- ~~(14)~~~~(13)~~ (a) The cabinet shall verify the addresses, names, motor vehicle operator's license numbers, and government-issued identification card numbers of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under KRS 17.520(2), ~~and~~ at least once every calendar year for a person required to register under KRS 17.520(3), *and at least once every thirty (30) days for a person who does not have an established and fixed residence of regular return.*
- (b) If the cabinet determines that a person has:

1. Moved without providing his or her new address;~~{or}~~
2. ***Failed to notify the local probation and parole office of his or her presence in a new county without an established and fixed residence of regular return; or***
3. A new name, motor vehicle operator's license number, or government-issued identification card number that he or she has not provided;

to the appropriate local probation and parole office or offices as required under subsection ~~(11)~~~~(10)~~(a), (b), and (c) of this section, the cabinet shall notify the appropriate local probation and parole office of the new address, name, motor vehicle operator's license number, or government-issued identification card number used by the person. The office shall then forward this information as set forth under subsection (5) of this section. The cabinet shall also notify the appropriate court, Parole Board, and appropriate Commonwealth's attorney, sheriff's office, probation and parole office, corrections agency, and law enforcement agency responsible for the investigation of the report of noncompliance.

- (c) An agency that receives notice of the noncompliance from the cabinet under paragraph (a) of this subsection:
1. Shall consider revocation of the parole, probation, postincarceration supervision, or conditional discharge of any person released under its authority; and
 2. Shall notify the appropriate county or Commonwealth's Attorney for prosecution.

(15) The provisions of subsections (10) and (14) of this section relating to registrants who do not have an established and fixed residence of regular return shall apply to any person required to register on or after the effective date of this section.

➔Section 3. KRS 403.720 is amended to read as follows:

As used in KRS 403.715 to 403.785:

- (1) "Domestic animal" means a dog, cat, or other animal that is domesticated and kept as a household pet, but does not include animals normally raised for agricultural or commercial purposes;
- (2) "Domestic violence and abuse" means:
 - (a) Physical injury, serious physical injury, stalking, sexual abuse, strangulation, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, strangulation, or assault between family members or members of an unmarried couple; or
 - (b) Any conduct prohibited by KRS 525.125, 525.130, 525.135, or 525.137, or the infliction of fear of such imminent conduct, taken against a domestic animal when used as a method of coercion, control, punishment, intimidation, or revenge directed against a family member or member of an unmarried couple who has a close bond of affection to the domestic animal;
- (3) "Family member" means a spouse, including a former spouse, a grandparent, a grandchild, a parent, ***an adult sibling***, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim;
- (4) "Foreign protective order" means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 that was issued on the basis of domestic violence and abuse;
- (5) "Global positioning monitoring system" means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;
- (6) "Member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together;
- (7) "Order of protection" means an emergency protective order or a domestic violence order and includes a foreign protective order;
- (8) "Strangulation" refers to conduct prohibited by KRS 508.170 and 508.175, or a criminal attempt, conspiracy, facilitation, or solicitation to commit the crime of strangulation; and

- (9) "Substantial violation" means criminal conduct which involves actual or threatened harm to the person, family, or property, including a domestic animal, of an individual protected by an order of protection.

➔Section 4. KRS 508.025 is amended to read as follows:

- (1) A person is guilty of assault in the third degree when the actor:
- (a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:
 1. A state, county, city, or federal peace officer;
 2. An employee of a detention facility, or state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender;
 3. ***A healthcare provider as defined in KRS 311.821, if the event occurs while the healthcare provider is providing medical care in an emergency room of a hospital;***
 4. An employee of the Department for Community Based Services employed as a social worker to provide direct client services, if the event occurs while the worker is performing job-related duties;
 - ~~5. Paid or volunteer emergency medical services personnel certified or licensed pursuant to KRS Chapter 311A, if the event occurs while personnel are performing job-related duties;~~
 - ~~6. A paid or volunteer member of an organized fire department, if the event occurs while the member is performing job-related duties;~~
 - ~~7. Paid or volunteer rescue squad personnel affiliated with the Division of Emergency Management of the Department of Military Affairs or a local disaster and emergency services organization pursuant to KRS Chapter 39F, if the event occurs while personnel are performing job-related duties;~~
 - ~~8. A probation and parole officer;~~
 - ~~9. A transportation officer appointed by a county fiscal court or legislative body of a consolidated local government, urban-county government, or charter government to transport inmates when the county jail or county correctional facility is closed while the transportation officer is performing job-related duties;~~
 - ~~10. A public or private elementary or secondary school or school district classified or certified employee, school bus driver, or other school employee acting in the course and scope of the employee's employment; or~~
 - ~~11. A public or private elementary or secondary school or school district volunteer acting in the course and scope of that person's volunteer service for the school or school district;~~
 - (b) Being a person confined in a detention facility, or a juvenile in a state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender, inflicts physical injury upon or throws or causes feces, or urine, or other bodily fluid to be thrown upon an employee of the facility; or
 - (c) Intentionally causes a person, whom the actor knows or reasonably should know to be a peace officer discharging official duties, to come into contact with saliva, vomit, mucus, blood, seminal fluid, urine, or feces without the consent of the peace officer.
- (2) (a) For a violation of subsection (1)(a) of this section, assault in the third degree is a Class D felony, unless the offense occurs during a declared emergency as defined by KRS 39A.020 arising from a natural or man-made disaster, within the area covered by the emergency declaration, and within the area impacted by the disaster, in which case it is a Class C felony.
- (b) For a violation of subsection (1)(b) of this section, assault in the third degree is a Class D felony.
- (c) For violations of subsection (1)(c) of this section, assault in the third degree is a Class B misdemeanor, unless the assault is with saliva, vomit, mucus, blood, seminal fluid, urine, or feces from an adult who knows that he or she has a serious communicable disease and competent medical or epidemiological

evidence demonstrates that the specific type of contact caused by the actor is likely to cause transmission of the disease or condition, in which case it is a Class A misdemeanor.

- (d) As used in paragraph (c) of this subsection, "serious communicable disease" means a non-airborne disease that is transmitted from person to person and determined to have significant, long-term consequences on the physical health or life activities of the person infected.

➔Section 5. KRS 532.100 is amended to read as follows:

- (1) As used in this section, "jail" means a "jail" or "regional jail" as defined in KRS 441.005.
- (2) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the Department of Corrections for the term of his or her sentence and until released in accordance with the law.
- (3) When a definite term of imprisonment is imposed, the court shall commit the defendant to a jail for the term of his or her sentence and until released in accordance with the law.
- (4) When a sentence of death is imposed, the court shall commit the defendant to the custody of the Department of Corrections with directions that the sentence be carried out according to law.
- (5)
 - (a) The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is sentenced to an indeterminate term of imprisonment of five (5) years or less, he or she shall serve that term in a jail in a county in which the fiscal court has agreed to house state prisoners; except that, when an indeterminate sentence of two (2) years or more is imposed on a Class D felon convicted of a sexual offense enumerated in KRS 197.410(1), or a crime under KRS 17.510~~(11) or~~ (12) *or* (13), the sentence shall be served in a state institution. Counties choosing not to comply with the provisions of this paragraph shall be granted a waiver by the commissioner of the Department of Corrections.
 - (b) The provisions of KRS 500.080(5) notwithstanding, a Class D felon who received a sentence of more than five (5) years for nonviolent, nonsexual offenses, but who currently has less than five (5) years remaining to be served, may serve the remainder of his or her term in a jail in a county in which the fiscal court has agreed to house state prisoners.
 - (c)
 1. The provisions of KRS 500.080(5) notwithstanding, and except as provided in subparagraph 2. of this paragraph, a Class C or D felon with a sentence of more than five (5) years who is classified by the Department of Corrections as community custody shall serve that term in a jail in a county in which the fiscal court has agreed to house state prisoners if:
 - a. Beds are available in the jail;
 - b. State facilities are at capacity; and
 - c. Halfway house beds are being utilized at the contract level as of July 15, 2000.
 2. When an indeterminate sentence of two (2) years or more is imposed on a felon convicted of a sex crime, as defined in KRS 17.500, or any similar offense in another jurisdiction, the sentence shall be served in a state institution.
 3. Counties choosing not to comply with the provisions of this paragraph shall be granted a waiver by the commissioner of the Department of Corrections.
 - (d) Any jail that houses state inmates under this subsection shall offer programs as recommended by the Jail Standards Commission. The Department of Corrections shall adopt the recommendations of the Jail Standards Commission and promulgate administrative regulations establishing required programs for a jail that houses state inmates under this subsection. The Department of Corrections shall approve programming offered by jails to state inmates for sentencing credits in accordance with KRS 197.045.
 - (e) Before housing any female state inmate, a jail shall be certified pursuant to KRS 197.020.
 - (f)
 1.
 - a. If a jail is at or over one hundred fifty percent (150%) capacity, the Department of Corrections may direct the jail to transfer a specified number of state prisoners to vacant beds at other designated jails or state institutions. As used in this paragraph, "capacity" means the capacity listed on the certificate of occupancy issued each year to the jail by the Department of Corrections.

- b. The Department of Corrections shall choose which state prisoners are eligible for transfer based on the security level of the vacant bed at the receiving jail or state institution.
 - c. State prisoners who are approved for transfer to a Department of Corrections facility for necessary medical treatment and care pursuant to KRS 441.560 shall not be transferred to another jail.
 - d. State prisoners enrolled in a Department of Corrections approved program pursuant to KRS 197.045 shall not be transferred.
 - e. State prisoners awaiting trial in the county they are being housed shall not be transferred.
 - f. Jails that receive state prisoners pursuant to this subparagraph shall be responsible for the transportation of those prisoners to the jail.
2. If the Department of Corrections directs the transfer of a state prisoner pursuant to subparagraph 1. of this paragraph, the jailer has fourteen (14) days to transfer the state prisoner. If the jailer refuses to release custody of the state prisoner to the receiving jail within fourteen (14) days, the department shall reduce the per diem for the jail for an amount equal to the per diem of that prisoner for each day the jailer refuses to comply with the direction.
 3. If the Department of Corrections directs the transfer of a state prisoner pursuant to subparagraph 1. of this paragraph, the jailer of the receiving jail shall accept the transfer and transport the state prisoner in accordance with subparagraph 1.f. of this paragraph. If, after receiving a copy of the direction, the jailer refuses to accept and transport the state prisoner, the Department of Corrections shall reduce the per diem for the receiving jail for an amount equal to the per diem of that prisoner for each day the jailer refuses to comply with the direction.
 4. If a jail has a vacant bed and has a Class C or Class D felon who, based on the Department of Corrections classification system, is eligible to be housed in that vacant bed, the department may direct the jail to transfer the state prisoner to that bed. If the jailer refuses to transfer the state prisoner to the vacant bed, the Department of Corrections shall reduce the per diem for the jail for an amount equal to the per diem of that prisoner for each day the jailer refuses to comply with the direction.
 5. The per diem reduced pursuant to subparagraph 2., 3., or 4. of this paragraph shall be enforced by withholding the amount from the per diem paid to the jail pursuant to KRS 431.215(2).
 6. If a jail that is at or over one hundred fifty percent (150%) capacity requests the transfer of a specified number of state prisoners, the Department of Corrections may, if vacant beds are available at other jails, direct the transfer in accordance with subparagraph 1. of this paragraph.
- (g) If a jail has vacant beds in an area of the jail usually reserved for state prisoners, the jail may house county prisoners in that area.
 - (6) The jailer of a county in which a Class D felon or a Class C felon is incarcerated may request the commissioner of the Department of Corrections to incarcerate the felon in a state corrections institution if the jailer has reasons to believe that the felon is an escape risk, a danger to himself or herself or other inmates, an extreme security risk, or needs protective custody beyond that which can be provided in a jail. The commissioner of the Department of Corrections shall evaluate the request and transfer the inmate if he or she deems it necessary. If the commissioner refuses to accept the felon inmate, and the Circuit Judge of the county that has jurisdiction of the offense charged is of the opinion that the felon cannot be safely kept in a jail, the Circuit Judge, with the consent of the Governor, may order the felon transferred to the custody of the Department of Corrections.
- (7) (a) Class D felons and Class C felons serving their time in a jail shall be considered state prisoners, and, except as provided in subsection (5)(f) of this section, the Department of Corrections shall pay the jail in which the prisoner is incarcerated a per diem amount determined according to KRS 431.215(2). For other state prisoners and parole violator prisoners, the per diem payments shall also begin on the date prescribed in KRS 431.215(2), except as provided in subsection (5)(f) of this section.
 - (b) 1. The per diem amount paid to the jail shall be increased by two dollars (\$2) per day of program attendance for those inmates enrolled in and attending evidence-based programs approved by the department and that do not require instructors to have completed any postsecondary education.

2. The per diem amount paid to the jail shall be increased by ten dollars (\$10) per day of program attendance for those inmates enrolled in and attending evidence-based programs approved by the department and that require instructors to have completed particular postsecondary courses.
- (c) Any amount beyond the base per diem paid under paragraph (a) of this subsection that is paid under a contract to the jail for an inmate's attendance at an evidence-based program shall be credited toward the ten dollars (\$10) increase in per diem required under paragraph (b) of this subsection.
- (8) State prisoners, excluding the Class D felons and Class C felons qualifying to serve time in jails, shall be transferred to the state institution within forty-five (45) days of final sentencing.
- (9) (a) Class D felons eligible for placement in a jail may be permitted by the warden or jailer to participate in any approved community work program or other form of work release with the approval of the commissioner of the Department of Corrections.
- (b) The authority to release an inmate to work under this subsection may be exercised at any time during the inmate's sentence, including the period when the court has concurrent authority to permit work release pursuant to KRS 439.265.
- (c) The warden or jailer may require an inmate participating in the program to pay a fee to reimburse the warden or jailer for the cost of operating the community work program or any other work release program. The fee shall not exceed the lesser of fifty-five dollars (\$55) per week or twenty percent (20%) of the prisoner's weekly net pay earned from the community work program or work release participation. In addition, the inmate may be required to pay for any drug testing performed on the inmate as a requirement of the community work program or work release participation.
- (d) This subsection shall not apply to an inmate who:
 1. Is not eligible for work release pursuant to KRS 197.140;
 2. Has a maximum or close security classification as defined by administrative regulations promulgated by the Department of Corrections;
 3. Is subject to the provisions of KRS 532.043; or
 4. Is in a reentry center as defined in KRS 441.005.

➔Section 6. Section 2 of this Act takes effect January 1, 2024.

Signed by Governor March 27, 2023.