

**STATEMENT OF EMERGENCY
501 KAR 1:071E**

The Parole Board amended 501 KAR 1:040 to comply with *Jones v. Bailey*, 576 S.W.3d 128 (Ky. 2019), which determined that the process for revoking parole and various forms of discharge that are treated like parole, is unconstitutional since it violates the offender's due process rights. 501 KAR 1:040 was amended to provide for a hearing before the Parole Board or an administrative law judge. 501 KAR 1:040 was amended as an emergency amendment because of Department of Corrections and jail capacity issues so that offenders who will not be returned to prison are released as soon as possible and requests for a hearing may be held quickly. This emergency regulation is necessary to meet an imminent threat to the public health, safety and welfare and prevent a conflict with the provisions in the emergency amendment of 501 KAR 1:040. An ordinary regulation is not sufficient because of conflicting provisions with 501 KAR 1:040 that might delay the ability to conduct revocation proceedings and to address past revocations for which a hearing may be requested. This emergency administrative regulation will allow revocation proceedings to occur as quickly as possible without conflict with other administrative regulation provisions. This administrative regulation will not be replaced by an ordinary administrative regulation because this repeals an administrative regulation and an ordinary administrative regulation is not needed.

MATTHEW G. BEVIN, Governor
LELIA VANHOOSE, Chair, Kentucky Parole Board

**JUSTICE AND PUBLIC SAFETY CABINET
Parole Board
(Emergency Repealer)**

501 KAR 1:071E. Repeal of 501 KAR 1:070.

RELATES TO: KRS 439.330(1)(e), 439.340, 439.341, 439.346, 439.430, 532.043, 532.060

STATUTORY AUTHORITY: KRS 439.330, 439.340, 439.430

NECESSITY, FUNCTION, AND CONFORMITY: KRS 439.340(3) requires the Parole Board to establish administrative regulations concerning parole revocation hearings. Sex offender conditional discharge is a type of postincarceration supervision that is treated in a manner similar to parole pursuant to KRS 439.346 and 532.043. The revocation proceedings have been combined into one (1) administrative regulation and this administrative regulation is no longer needed.

Section 1. 501 KAR 1:070, Conducting sex offender postincarceration supervision revocation hearings, is hereby repealed.

The Chair of the Kentucky Parole Board, with the authorization and approval of a majority of the members of the Kentucky Parole Board on September 30, 2019, approves the repeal of the administrative regulation on behalf of the Kentucky Parole Board, as indicated by her signature below.

LELIA A. VANHOOSE, Chair
APPROVED BY AGENCY: October 14, 2019
FILED WITH LRC: October 21, 2019

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 27, 2019, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through December 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax(502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Amy V. Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals the administrative regulation that pertained to sex offender postincarceration supervision revocation since this type of revocation was added to 501 KAR 1:040, the parole revocation administrative regulation.

(b) The necessity of this administrative regulation: The revocation procedures for this type of supervision have been included in another administrative regulation and the repeal is needed to prevent duplication and conflict with the other administrative regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The repeal is needed to prevent duplication and conflict with another administrative regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The repeal is needed to prevent duplication and conflict with another administrative regulation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is not an amendment.

(b) The necessity of the amendment to this administrative regulation: This is not an amendment.

(c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment.

(d) How the amendment will assist in the effective administration of the statutes: This is not an amendment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The repeal does not affect individuals, businesses, organizations, or state and local governments since the procedures are covered in another administrative regulation.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: No entities will have to take action since this is a repeal.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No cost is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities: The repeal is needed to prevent duplication and conflict with another administrative regulation.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No cost is anticipated.

(b) On a continuing basis: No cost is anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This is a repealer and no funding is involved.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This is a repealer and no costs or fees are involved.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This is a repealer and no costs or fees are involved.

(9) TIERING: Is tiering applied? Explain why or why not. This is a repealer and no tiering is needed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The repeal does not affect state and local governments since the procedures are covered in another administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 439.320 and 439.340

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Repealing the regulation does not create any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Repealing the regulation does not create any revenue.

(c) How much will it cost to administer this program for the first year? Repealing the regulation does not create any cost.

(d) How much will it cost to administer this program for subsequent years? Repealing the regulation does not create any cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: