

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 2:060. Procedures for housing of Class C and D felons.

RELATES TO: KRS 196.035, 197.020, 197.045, 431.215, 441.045, 441.075, 441.510, 532.100

STATUTORY AUTHORITY: KRS 196.035, 197.020, 532.100

NECESSITY, FUNCTION, AND CONFORMITY: KRS 532.100(5) requires the Department of Corrections to house qualifying Class C and D felons in jails. KRS 196.035 authorizes the secretary to promulgate administrative regulations necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. This administrative regulation establishes the procedures to implement the required housing program.

Section 1. Eligibility. Any county housing qualified inmates pursuant to KRS 532.100(5) shall be eligible to continue to do so unless the department, through its minimum jail standards enforcement procedures established by KRS 441.075, orders a jail to cease housing Class C and D felons.

Section 2. Submission of documents for Class D felons. In any jail housing Class D felons, the jailer shall forward to the assessment and classification center the following documents, within ten (10) working days of receipt of the judgment, for each Class D felon for whom a transfer has not been requested:

- (1) Picture, which shall be updated annually in accordance with Section 12 of this administrative regulation;
- (2) Any detainers;
- (3) Any incident or disciplinary reports; and
- (4) Body identification sheet.

Section 3. Custody Assignment for Class D Felons.

- (1) Offender Information Services staff shall, within fifteen (15) working days of receipt of the presentence investigation and the judgment and sentence, calculate the inmate sentence. The assessment and classification center staff shall, within fifteen (15) working days of receipt of the calculated sentence, review the inmate file and assign a custody classification level to the Class D felon.
- (2) The AC Center staff shall notify the jailer of the custody classification level assignment. Offender Information Services, Central Office, shall audit the file within five (5) working days of receipt.
- (3) If the custody level assigned is minimum or community, the Class D felon may:
 - (a) Participate in community service work or any program offered inside or outside the secure perimeter of the jail; and
 - (b) Be housed inside the secure perimeter of the jail, in the restricted custody area of the jail, or in a restricted custody center.
- (4) If the custody level assigned is medium or maximum, the Class D felon:
 - (a) Shall not be eligible to participate in any program or work outside the secure perimeter of the jail; and
 - (b) Shall be housed in the secure perimeter of the jail.
- (5) The jailer may request the department to review the assignment ninety (90) days from the date of the last assignment. Any additional custody review may be completed as deemed necessary by the Director of Population Management.

Section 4. Assignment of Class C felons.

- (1) The assessment and classification center shall identify and inform the jailer of a Class C felon who qualifies under KRS 532.100(5)(c)1. to be housed in a jail.
- (2) The AC center shall notify the jailer when an inmate has been assigned as a Class C felon.

Section 5. Parole Board.

- (1) Prior to the meeting of the Parole Board, jail personnel shall provide each qualified inmate scheduled for review by the board with a jail offender Information to the Kentucky Parole Board form. Jail personnel shall submit the completed form to the Division of Local Facilities via KOMS or electronically, as requested by the Parole Board.
- (2) Jail personnel shall inquire if a qualified inmate scheduled for review by the board would like to waive his or her Parole Board hearing and request a serve out if the qualified inmate scheduled to meet the Parole Board has ninety (90) days or less remaining until his or her minimum expiration date. If the qualified inmate decides to waive his or her Parole Board hearing and request a serve out, jail personnel shall have the inmate sign the Request Declining Parole form and submit it to the Parole Board via KOMS or electronically.
- (3) Deaf or Hard of Hearing Inmate.
 - (a) If a deaf or hard of hearing inmate has a hearing before the Parole Board, the jail shall assist the Parole Board with appropriate accommodation necessary for effective communication for the inmate for the hearing.
 - (b) The jail shall provide headphones if headphones are necessary to meet the needs of deaf and hard of hearing inmates for effective communication or work with the Parole Board to provide other necessary hearing accommodation services for the Parole Board hearing.

Section 6. Transportation. Jail personnel shall be responsible for the transportation of a qualified inmate except as specified in KRS 431.215(1) and 441.510.

Section 7. Release Procedures.

- (1) The release of a qualified inmate shall follow the procedure established by CPP 25.6, incorporated by reference in 501 KAR 6:020.
- (2)
 - (a) Jail personnel shall not release a qualified inmate to any other jail or agency without submission of external movement information to the Director of Local Facilities or designee. The information shall include:
 1. Name;
 2. Inmate number;
 3. Facility transferring felon;
 4. Facility receiving felon; and
 5. Date transferred and received.
 - (b) Any jail that is under order of the department relating to restrictions on state inmates shall receive prior authorization from the Director of Local Facilities before requesting state inmates from the department or any other jail.
 - (c) A qualified inmate shall not be released to another state or to federal authorities without advance notice and approval of the Director of Local Facilities or designee.
- (3) Jail personnel shall notify the Director of Local Facilities or the Offender Information Services of any detainer or holder lodged against the qualified inmate by another jurisdiction.

Section 8.

- (1) Furlough requests shall be submitted to the Classification Branch Manager.

(2) Furloughs shall be governed by CPP 25.4, incorporated by reference in 501 KAR 6:020.

Section 9. Escape. If a qualified inmate escapes, the jailer, jail administrator, or jail personnel shall immediately:

- (1) Notify the Division of Local Facilities jail inspector;
- (2) Notify Kentucky State Police (KSP) or local law enforcement;
- (3) Activate VINE through use of the Emergency Override Line (EOL); and
- (4) Enter the prisoner's escape status into the jail management system.

Section 10. Medical Needs. The department shall pay each jail a per diem for state prisoners as established by KRS 532.100(7). The jail shall pay for routine medical and medication expenses but may charge a copay as provided by KRS 441.045(13). If the inmate requires an admission to a hospital with at least one (1) night stay or outpatient surgery in which a general anesthesia is used, the cost shall be paid by the department. The jailer, jail administrator, or jail personnel shall notify the Department of Corrections Medical Division designee if any qualified inmate is admitted to the hospital for twenty-four (24) hours or longer.

Section 11. Inmate Pay. A qualified inmate on a work assignment shall be paid in accordance with CPP 19.3, incorporated by reference in 501 KAR 6:020.

Section 12. Good Time. For a qualified inmate housed in a jail, the awarding of good time or sentence credit shall be in accordance with this section.

- (1) Statutory good time shall follow the procedures established in KRS 197.045(1)(b)1.
- (2) Meritorious good time shall follow procedures established in KRS 197.045(1)(b)2. and CPP 15.3, incorporated by reference in 501 KAR 6:020.
- (3) Educational good time shall follow procedures established in KRS 197.045(1)(a)2. and CPP 20.1, incorporated by reference in 501 KAR 6:020.
- (4) If the jail has a substance abuse program approved by the department, then the felon shall receive credit to his sentence allowed by KRS 197.045(1)(a)3.

Section 13. Annual Photograph. The jailer, jail administrator, or jail personnel shall take a photograph each year of each qualified inmate and immediately send it by United States mail, electronically, or via KOMS to Department of Corrections, Offender Information Services, P.O. Box 2400, Frankfort, Kentucky 40602.

Section 14. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Information to the Kentucky Parole Board", 2021; and
 - (b) "Request Declining Parole", 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Corrections, Division of Population Management, 275 East Main Street, P.O. Box 2400, Frankfort, Kentucky 40602-2400, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site at <https://corrections.ky.gov/About/Pages/lrcfilings.aspx>.

(19 Ky.R. 1491; Am. 1746; eff. 2-8-1993; 22 Ky.R. 343; 1076; eff. 12-7-1995; 27 Ky.R. 2893; 3245; eff. 6-8-2001; 34 Ky.R. 1166; 1954; eff. 3-7-2008; 37 Ky.R. 2933; 38 Ky.R. 567; eff. 10-7-2011; 42 Ky.R. 1930; 2332; eff. 3-4-2016; 48 Ky.R. 552, 1610; eff. 3-1-2022; 50 Ky.R. 1946; eff. 9-3-2024.)

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: February 6, 2024
FILED WITH LRC: February 15, 2024 at 8:50 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 23, 2024, 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 April 30, 2024. 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 and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, Justice.RegContact@ky.gov, telephone number (502) 564-3279, facsimile number (502) 564-6686.