

**189A.040 Alcohol or substance abuse treatment and education programs -- Sentencing offenders to programs -- Regulation of programs -- Medicaid-eligible defendants -- Appeals of decisions regarding licensure of education and treatment facilities and programs.**

- (1) In addition to any other penalty prescribed by KRS 189A.010(5)(a) or (6), the court shall sentence the person to attend an alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender or a person convicted under KRS 189A.010(1)(f):
  - (a) The treatment or education shall be for a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program;
  - (b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment;
  - (c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant shall be released prior to the expiration of the ninety (90) day period; and
  - (d) Failure to complete the education or treatment program or to pay the amount specified by the court for education or treatment shall constitute contempt, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the education or treatment program.
- (2) In addition to any other penalty prescribed by KRS 189A.010(5)(b), the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a second offender:
  - (a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program;
  - (b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment;
  - (c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the one (1) year period; and
  - (d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.
- (3) In addition to any other penalty prescribed by KRS 189A.010(5)(c) or (d), the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender:

- (a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. The program may be an inpatient or residential-type program;
  - (b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program;
  - (c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period; and
  - (d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.
- (4) Costs of treatment or education programs which are paid from the service fee established by KRS 189A.050, or from state or federal funds, or any combination thereof, shall be deducted from the amount which the defendant must pay.
- (5) For defendants who are Medicaid-eligible, alcohol or substance abuse treatment under this section shall be authorized by the Department for Medicaid Services and its contractors as Medicaid-eligible services and shall be subject to the same medical necessity criteria and reimbursement methodology as for all other covered behavioral health services.
- (6) For the purposes of this section, "treatment" means service in an alcohol or substance abuse education or treatment program or facility licensed, regulated, and monitored by the Cabinet for Health and Family Services for services as required under this section.
- (7) The Cabinet for Health and Family Services shall promulgate administrative regulations for the licensure of education and treatment facilities and programs for offenders receiving education or treatment under this section. The criteria developed by the Cabinet for Health and Family Services shall include:
- (a) Manner of assessment;
  - (b) Appropriate education and treatment plans; and
  - (c) Referrals to other treatment providers.
- (8) The participating facilities and programs shall be required to abide by these standards and shall report completion to the Transportation Cabinet. Upon request, the facility or program shall report to the courts regarding the progress of offenders being treated pursuant to this section.
- (9) Administrative decisions regarding the licensure of education and treatment facilities and programs may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

**Effective:** July 1, 2020

**History:** Amended 2019 Ky. Acts ch. 103, sec. 3, effective July 1, 2020. -- Amended

2010 Ky. Acts ch. 149, sec. 18, effective July 15, 2010. -- Amended 2005 Ky. Acts ch. 99, sec. 146, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 467, sec. 3, effective October 1, 2000. -- Amended 1998 Ky. Acts ch. 426, sec. 125, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 318, sec. 75, effective July 15, 1996. -- Amended 1991 (1st Extra. Sess.) Ky. Acts ch. 15, sec. 3, effective July 1, 1991. -- Created 1984 Ky. Acts ch. 165, sec. 4, effective July 13, 1984.