

**31.252 Order for pretrial release for assessment -- Release plan -- Treatment options.**

- (1) As used in this section:
  - (a) "Alternative sentencing worker" means an employee of the department who develops an alternative sentencing plan in lieu of incarceration for individuals who suffer from substance use disorder;
  - (b) "Qualified treatment program" has the same meaning as in KRS 222.427; and
  - (c) "Treatment program" has the same meaning as in KRS 222.427.
- (2) Upon a motion by the defendant or upon the court's own motion with the defendant's consent, the court may issue an order for pretrial release pending an assessment for a mental health or substance use disorder. The prosecutor shall be given an opportunity to object to the issuance of the order or to recommend specific conditions for the release.
- (3) Upon entry of the order, the defendant, the department, or the defendant's retained counsel shall ensure that a needs assessment is conducted within forty-eight (48) hours, or as soon thereafter as practicable, by an alternative sentencing worker, or, upon consent and request of counsel, a qualified health professional as defined in KRS 222.005.
- (4)
  - (a) After the assessment, a release plan shall be developed and submitted to the court and Commonwealth's or county attorney as soon as practicable.
  - (b) A treatment plan developed by a qualified health professional who is employed by a treatment program other than a community mental health center shall not include in the treatment plan, services that are to be provided exclusively by the qualified health professional's employing treatment program.
- (5) The court may approve the plan without a hearing or schedule a hearing.
- (6) The court may order as a condition of release completion of the treatment plan. The defendant shall execute a valid release permitting a facility or service provider to report to the court if the defendant ceases to participate in a service that has been ordered.
- (7) In recommending services in alternative sentencing plans, the department or defense counsel shall consider all appropriate and competent facilities as enumerated on the qualified treatment program list maintained by the cabinet pursuant to KRS 222.427 and treatment programs and shall not discriminate against any facility or program based on religious content in a program, except that the department or defense counsel may recommend facilities or programs that are consistent with a client's personal religious beliefs or nonbelief. The department or defense counsel shall not knowingly recommend treatment or services that are inconsistent with or violate a client's personal religious beliefs or nonbelief without the consent of the client.

**Effective:** July 15, 2024

**History:** Created 2024 Ky. Acts ch. 68, sec. 5, effective July 15, 2024.