

AN ACT relating to pretrial release.

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

➔Section 1. KRS 218A.135 is amended to read as follows:

- (1) Any statute to the contrary notwithstanding, a defendant charged with an offense under this chapter for which a conviction may result in presumptive probation shall be placed on pretrial release on his or her own recognizance or on unsecured bond by the court subject to any conditions, other than bail, specified in KRS 431.515 to 431.550.
- (2) The provisions of this section shall not apply to a defendant who is found by the court **by clear and convincing evidence, after considering the pretrial risk assessment report,** to present a flight risk or to be a danger to others.
- (3) If a court determines that a defendant shall not be released pursuant to subsection (2) of this section, the court shall document the reasons, **specific to the defendant,** for denying the release in a written order.

➔Section 2. KRS 431.066 is amended to read as follows:

- (1) For purposes of this section, "verified and eligible defendant" means a defendant who pretrial services is able to interview and assess, and whose identity pretrial services is able to confirm through investigation.
- (2) When a court considers pretrial release and bail for an arrested defendant, the court shall consider **the pretrial risk assessment for a verified and eligible defendant, along with the factors set forth in KRS 431.525. If the court finds, by clear and convincing evidence, that**~~whether~~ the defendant constitutes a flight risk, is unlikely to appear for trial, or is likely to be a danger to the public if released,~~[-] it shall do so in a written finding citing reasons specific to the defendant.~~~~In making this determination, the court shall consider the pretrial risk assessment for a verified and eligible defendant along with the factors set forth in KRS 431.525.~~
- (3) If a verified and eligible defendant poses low risk of flight, is likely to appear for

trial, and is not likely to be a danger to others, the court shall order the defendant released on unsecured bond or on the defendant's own recognizance subject to such other conditions as the court may order.

- (4) If a verified and eligible defendant poses a moderate risk of flight, has a moderate risk of not appearing for trial, or poses a moderate risk of danger to others, the court shall release the defendant under the same conditions as in subsection (3) of this section but shall consider ordering the defendant to participate in global positioning system monitoring, controlled substance testing, increased supervision, or such other conditions as the court may order.
- (5) (a) Except as provided in paragraph (b) of this subsection, regardless of the amount of the bail set, the court shall permit the defendant a credit of one hundred dollars (\$100) per day as a payment toward the amount of the bail set for each day or portion of a day that the defendant remains in jail prior to trial. Upon the service of sufficient days in jail to have sufficient credit to satisfy the bail, the defendant shall be released from jail on the conditions specified in this section or in this chapter.
- (b) The provisions of paragraph (a) of this subsection shall not apply to:
1. Any person convicted of, pleading guilty to, or entering an Alford plea to a felony offense under KRS Chapter 510, KRS 529.100 involving commercial sexual activity, KRS 530.020, 530.064(1)(a), 531.310, or 531.320, or who is a violent offender as defined in KRS 439.3401; or
  2. A defendant who is found by the court to present a flight risk or to be a danger to others.
- (c) For purposes of this subsection, "a day or portion of a day" means any time spent in a detention facility following booking.
- (d) A defendant shall not earn credit pursuant to paragraph (a) of this subsection while also earning credit pursuant to KRS 534.070.

- (6) If a court determines that a defendant shall not be released pursuant to subsection (5) of this section, the court shall document the reasons, *specific to the defendant,* for denying the release in a written order.
- (7) The jailer shall be responsible for tracking the credit earned by a defendant pursuant to subsection (5) of this section.