

AN ACT relating to controlled substances and declaring an emergency.

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

➔Section 1. KRS 15.334 is amended to read as follows:

- (1) The Kentucky Law Enforcement Council shall approve mandatory training subjects to be taught to all students attending a law enforcement basic training course that include but are not limited to:
  - (a) Abuse, neglect, and exploitation of the elderly and other crimes against the elderly, including the use of multidisciplinary teams in the investigation and prosecution of crimes against the elderly;
  - (b) The dynamics of domestic violence, pediatric abusive head trauma, as defined in KRS 620.020, child physical and sexual abuse, and rape; child development; the effects of abuse and crime on adult and child victims, including the impact of abuse and violence on child development; legal remedies for protection; lethality and risk issues; profiles of offenders and offender treatment; model protocols for addressing domestic violence, rape, pediatric abusive head trauma, as defined in KRS 620.020, and child abuse; available community resources and victim services; and reporting requirements. This training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with expertise in domestic violence, child abuse, and rape. Training in recognizing pediatric abusive head trauma may be designed in collaboration with organizations and agencies that specialize in the prevention and recognition of pediatric abusive head trauma approved by the secretary of the Cabinet for Health and Family Services;
  - (c) Human immunodeficiency virus infection and acquired immunodeficiency virus syndrome;
  - (d) Identification and investigation of, responding to, and reporting bias-related

crime, victimization, or intimidation that is a result of or reasonably related to race, color, religion, sex, or national origin; ~~and~~

- (e) The characteristics and dynamics of human trafficking, state and federal laws relating to human trafficking, the investigation of cases involving human trafficking, including but not limited to screening for human trafficking, and resources for assistance to the victims of human trafficking; **and**

**(f) The detection and interdiction of heroin trafficking, the dynamics of heroin abuse, the correct procedure for administration of naloxone to an individual suffering from an apparent opiate-related overdose, and available treatment options for persons suffering from heroin addiction.**

- (2) (a) The council shall develop and approve mandatory professional development training courses to be presented to all certified peace officers. A mandatory professional development training course shall be first taken by a certified peace officer in the training year following its approval by the council and biennially thereafter. A certified peace officer shall be required to take these courses no more than two (2) times in eight (8) years.

- (b) Beginning January 1, 2011, the council shall require that one and one-half (1.5) hours of professional development covering the recognition and prevention of pediatric abusive head trauma be included in the curriculum of all mandatory professional development training courses such that all officers shall receive this training at least once by December 31, 2013. The one and one-half (1.5) hours required under this section shall be included in the current number of required continuing education hours.

**(c) The council shall develop and approve regionalized mandatory in-service training courses on the topic of heroin, including instructional material on the detection and interdiction of heroin trafficking, the dynamics of heroin abuse, the correct procedure for administration of naloxone to an**

**individual suffering from an apparent opiate-related overdose and available treatment options for persons suffering from heroin addiction. There shall be at least one (1) course offered in each area development district by July 1, 2016, with the courses being designed to qualify toward the forty (40) hour in-service training requirement pursuant to KRS 15.404.**

- (3) The Justice and Public Safety Cabinet shall provide training on the subjects of domestic violence and abuse and may do so utilizing currently available technology. All certified peace officers shall be required to complete this training at least once every two (2) years.
- (4) The council shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish mandatory basic training and professional development training courses.
- (5) The council shall make an annual report by December 31 each year to the Legislative Research Commission that details the subjects and content of mandatory professional development training courses established during the past year and the subjects under consideration for future mandatory training.

➔Section 2. KRS 72.026 is amended to read as follows:

- (1) Unless another cause of death is clearly established, in cases requiring a post-mortem examination under KRS 72.025 the coroner or medical examiner shall take a blood sample and have it tested for the presence of any controlled substances which were in the body at the time of death.
- (2) If a coroner or medical examiner determines that a drug overdose is the cause of death of a person, he or she shall provide notice of the death to:
  - (a) The state registrar of vital statistics and the Department of Kentucky State Police. The notice shall include any information relating to the drug that resulted in the overdose. The state registrar of vital statistics shall not enter the information on the deceased person's death certificate unless the information

is already on the death certificate;~~and~~

- (b) The licensing board for the individual who prescribed or dispensed the medication, if known. The notice shall include any information relating to the drug that resulted in the overdose, including the individual authorized by law to prescribe or dispense drugs who dispensed or prescribed the drug to the decedent; and

(c) The Commonwealth's attorney and a local law enforcement agency in the circuit where the death occurred, if the death resulted from the use of a Schedule I controlled substance, with the notice including all information as to the types and concentrations of Schedule I drugs detected.

This subsection shall not apply to reporting the name of a pharmacist who dispensed a drug based on a prescription.

- (3) The state registrar of vital statistics shall report, within five (5) business days of the receipt of a certified death certificate or amended death certificate, to the Division of Kentucky State Medical Examiners Office, any death which has resulted from the use of drugs or a drug overdose.
- (4) The Justice and Public Safety Cabinet in consultation with the Kentucky State Medical Examiners Office shall promulgate administrative regulations necessary to administer this section.

➔Section 3. KRS 196.288 is amended to read as follows:

- (1) The department shall measure and document cost savings resulting from amendments to or creation of statutes in KRS Chapters 27A, 196, 197, 431, 439, 532, 533, and 534 contained in 2011 Ky. Acts ch. 2. Measured and documented savings shall be reinvested or distributed as provided in this section.
- (2) The department shall establish a baseline for measurement using the average number of inmates incarcerated at each type of penitentiary as defined in KRS 197.010 and at local jails in fiscal year 2010-2011.

- (3) The department shall determine the average cost of:
- (a) Incarceration for each type of penitentiary as defined in KRS 197.010 and for local jails, including health care costs, transportation costs, and other related costs, for one (1) inmate for one (1) year for the immediately preceding fiscal year;~~and~~
  - (b) Providing probation and parole services for one (1) parolee for one (1) year for the immediately preceding fiscal year; and
  - (c) Providing naltrexone for extended-release injectable suspension, for use as a component of a medically assisted substance abuse treatment program operated by the department for inmates housed in state or local facilities or supervised by the Division of Probation and Parole.
- (4) Beginning with the budget request for the 2012-2014 fiscal biennium, savings shall be estimated from the baseline established in subsection (2) of this section as follows:
- (a) The estimated average reduction of inmates due to mandatory reentry supervision as required by KRS 439.3406 multiplied by the appropriate average cost as determined in subsection (3)(a) of this section;
  - (b) The estimated average reduction of inmates due to accelerated parole hearings as required by KRS 439.340 multiplied by the appropriate average cost as determined in subsection (3)(a) of this section;
  - (c) The estimated average increase of parolees due to paragraphs (a) and (b) of this subsection multiplied by the average cost as determined in subsection (3)(b) of this section; and
  - (d) The estimated average reduction of parolees due to parole credit for good behavior as provided in KRS 439.345 multiplied by the average cost as determined in subsection (3)(b) of this section.
- (5) The following amounts shall be allocated or distributed from the estimated amount

of savings that would otherwise remain in the general fund:

(a) Twenty-five percent (25%) shall be distributed to the local corrections assistance fund established by KRS 441.207;

**(b) Five percent (5%) shall be distributed to the Department of Corrections for the purchase and administration of naltrexone for extended-release injectable suspension, for use as a component of a medically assisted substance abuse treatment program operated by the Department of Corrections for inmates housed in state or local facilities or supervised by the Division of Probation and Parole;** and

~~(c)~~~~(b)~~ In enacting the budget for the department and the judicial branch, beginning in the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the General Assembly shall:

1. Determine the estimated amount necessary for reinvestment in:
  - a. Expanded treatment programs and expanded probation and parole services provided by or through the department; and
  - b. Additional pretrial services and drug court case specialists provided by or through the Administrative Office of the Courts; and
2. Shall allocate and appropriate sufficient amounts to fully fund these reinvestment programs.

(6) The amount of savings shall be estimated each year of the 2012-2014 fiscal biennium, and for each year of each fiscal biennium thereafter, as specified in subsection (4) of this section.

(7) (a) In submitting its budget request for the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the department shall estimate the amount of savings measured under this section and shall request the amount necessary to distribute or allocate those savings as provided in subsection (5) of this

section.

- (b) In submitting its budget request for the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the judicial branch shall request the amount necessary to distribute or allocate those savings as provided in subsection (5) of this section.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The Department for Medicaid Services shall provide a substance abuse benefit consistent with federal laws and regulations which shall include a broad array of treatment options for those with heroin and other substance abuse disorders. At a minimum, these options, if affordable as determined by the department, shall include assessment, crisis residential, mobile crisis, outpatient, intensive outpatient treatment, residential treatment, and opioid antagonist therapy.

(2) The department shall promulgate administrative regulations to implement this section and to expand the behavioral health network to allow providers to provide services within their licensure category.

(3) Providers of peer-mediated, recovery-oriented, therapeutic community models of care, such as those operated by Recovery Kentucky, shall have the opportunity to contract with managed care organizations to be reimbursed for any portion of those services that are provided by licensed or certified providers in accordance with approved billing codes.

(4) Beginning January 1, 2016, the Department for Medicaid Services shall provide an annual report to the Legislative Research Commission detailing the number of providers of substance abuse treatment, the type of services offered by each provider, the geographic distribution of providers, and a summary of expenditures on substance abuse treatment services provided by Medicaid.

➔Section 5. KRS 217.186 is amended to read as follows:

- (1) A licensed health-care provider who, acting in good faith, directly or by standing order, prescribes or dispenses the drug naloxone to a person or agency~~[patient]~~ who, in the judgment of the health-care provider, is capable of administering the drug for an emergency opioid overdose, shall not, as a result of his or her acts or omissions, be subject to disciplinary or other adverse action under KRS Chapter 311, 311A, 314, or 315 or any other professional licensing statute.
- (2) A prescription for naloxone may include authorization for administration of the drug to the person for whom it is prescribed by a third party if the prescribing instructions indicate the need for the third party upon administering the drug to immediately notify a local public safety answering point of the situation necessitating the administration.
- (3) A peace officer, firefighter, paramedic, emergency medical technician, or school employee authorized under KRS 156.502 to administer medication, may receive a naloxone prescription, possess naloxone, and administer naloxone to an individual suffering from an apparent opiate-related overdose.
- (4) The board of each local public school district and the governing body of each private and parochial school or school district may permit a school to keep naloxone on the premises, including but not limited to the school office or cafeteria, so that naloxone may be administered to any individual suffering from an apparent opiate-related overdose.
- (5) Schools electing to keep naloxone on the premises shall maintain the drug in a secure, accessible, but unlocked location. The provisions of this subsection shall apply to the extent that the naloxone is donated to the school or a school has sufficient funding to purchase naloxone.
- (6) Each school electing to keep naloxone on the premises shall implement policies and procedures developed and approved by the local school board for managing an individual's apparent opiate-related overdose.



**(7) The Kentucky Department for Public Health shall develop clinical protocols in the school health section of the Core Clinical Service Guide manual that is maintained in the county or district public health department to address supplies of naloxone kept by schools under this section and to advise on the clinical administration of naloxone. The protocols shall be developed in collaboration with local health departments, or local health providers and local schools and local school districts.**

**(8)** A person acting in good faith who administers naloxone as the third party under this section shall be immune from criminal and civil liability for the administration, unless personal injury results from the gross negligence or willful or wanton misconduct of the person administering the drug.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

**Substance abuse treatment or recovery service providers that receive state funding shall give pregnant women priority in accessing services and shall not refuse access to services solely due to pregnancy as long as the provider's services are appropriate for pregnant women.**

➔Section 7. KRS 218A.500 is amended to read as follows:

As used in this section and KRS 218A.510:

(1) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter.

It includes but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating,

- cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
  - (c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
  - (d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
  - (e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
  - (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
  - (g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
  - (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;
  - (i) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
  - (j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
  - (k) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body; and
  - (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or

otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips which mean objects used to hold burning material, such as marijuana cigarettes, that have become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bonges; ice pipes or chillers.

- (2) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter.
- (3) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.
- (4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
- (5) **Prior to searching a person, a person's premises, or a person's vehicle, a peace**

officer may ask the person whether the person is in possession of a hypodermic needle or other sharp object that may cut or puncture the officer or whether a hypodermic needle or other sharp object is on the premises or in the vehicle to be searched. If there is a hypodermic needle or other sharp object on the person, on the person's premises, or in the person's vehicle, and the person alerts the officer of that fact prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object or for possession of a controlled substance for residual or trace drug amounts present on the needle or sharp object. The exemption under this subsection shall not apply to any other drug paraphernalia that may be present and found during the search or to controlled substances present in other than residual or trace amounts.

(6) Any person who violates any provision of this section shall be guilty of a Class A misdemeanor.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person shall have a defense for a violation of a criminal offense prohibiting the possession of a controlled substance or the possession of drug paraphernalia if:

(a) The person in good faith seeks medical assistance from a public safety answering point, emergency medical services, a law enforcement officer, or a health practitioner for a person experiencing a drug overdose;

(b) The person remains with the overdose victim until the requested assistance arrives or is provided; and

(c) The conduct for which the defense is asserted arises from the same course of events from which the drug overdose arose.

(2) The defense provided in subsection (1) of this section:

(a) Shall extend to the person who suffered the drug overdose if, subsequent to

*the person being charged with a violation of KRS Chapter 218A and prior to trial, the person participates in and demonstrates suitable compliance with the terms of a secular or faith-based substance abuse treatment or recovery program, if space is available in a program appropriate to that person; but*

*(b) Shall not extend to the investigation and prosecution of any other crimes committed by a person who otherwise qualifies for the defense under this section, including a trafficking prosecution based upon possession with the intent to traffic in the controlled substance.*

➔Section 9. KRS 218A.1412 is amended to read as follows:

- (1) A person is guilty of trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in:
  - (a) Four (4) grams or more of cocaine;
  - (b) Two (2) grams or more of heroin or methamphetamine;
  - (c) Ten (10) or more dosage units of a controlled substance that is classified in Schedules I or II and is a narcotic drug, or a controlled substance analogue;
  - (d) Any quantity of lysergic acid diethylamide; phencyclidine; gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers, and analogues; or flunitrazepam, including its salts, isomers, and salts of isomers; or
  - (e) Any quantity of a controlled substance specified in paragraph (a), (b), or (c) of this subsection in an amount less than the amounts specified in those paragraphs.
- (2) The amounts specified in subsection (1) of this section may occur in a single transaction or may occur in a series of transactions over a period of time not to exceed ninety (90) days that cumulatively result in the quantities specified in this section.

- (3) (a) Except as provided in paragraph (b) or (c) of this subsection, any person who violates the provisions of this section shall be guilty of a Class C felony for the first offense and a Class B felony for a second or subsequent offense. *If the offense involves the defendant trafficking in heroin in an aggregate amount of less than four (4) grams, the defendant shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed. If the offense involves the defendant trafficking in heroin in an aggregate amount of four (4) grams or more, the defendant shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least eighty-five percent (85%) of the sentence imposed.*
- (b) *Except as provided in paragraphs (a) and (c) of this subsection,* any person who violates the provisions of subsection (1)(e) of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second offense or subsequent offense *and, if the substance trafficked in violation of this section was heroin, the defendant shall not be released on probation, shock probation, conditional discharge, or parole until he or she has served at least twenty-five percent (25%) of the sentence imposed.*
- (c) *Notwithstanding the provisions of paragraphs (a) and (b) of this subsection, if as a result of a defendant's violation of this section, a person dies as a consequence of the use of heroin trafficked by the defendant, the defendant is guilty of a Class B felony and a Class A felony for a second or subsequent offense. A defendant may be convicted for the death of another under either this paragraph or a section of KRS Chapter 507 or 507A, but not both.*
- (4) (a) 1. All persons convicted of a violation of this section where the trafficked substance is two (2) grams or more of heroin but less than four (4)

- grams shall be sentenced to pay a service fee of one thousand dollars (\$1,000), which shall be in addition to all other penalties authorized by law.
2. All persons convicted of a violation of this section where the trafficked substance is four (4) grams or more of heroin but less than ten (10) grams shall be sentenced to pay a service fee of five thousand dollars (\$5,000), which shall be in addition to all other penalties authorized by law.
3. All persons convicted of a violation of this section where the trafficked substance is ten (10) grams or more of heroin shall be sentenced to pay a service fee of ten thousand dollars (\$10,000) plus an additional ten thousand dollars (\$10,000) for every additional ten (10) grams trafficked in excess of the initial ten (10) gram threshold, which shall be in addition to all other penalties authorized by law.
- (b) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.
- (c) Service fees collected under this subsection shall be remitted to KY-ASAP to provide supplemental funding for substance abuse treatment programs operating in county jails that are located within the region in which the offense was committed, which may include the usage of naltrexone for extended release suspension, as a component of the treatment program.
- (5) Upon the motion by the Commonwealth stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense, a sentencing court may impose in its judgment a minimum service of time requirement less than the standard imposed under subsection (3)(a) or (b) of this section in consideration of the following:

- (a) The court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the government's evaluation of the assistance rendered;
- (b) The truthfulness, completeness, and reliability of any information or testimony provided by the defendant;
- (c) The nature and extent of the defendant's assistance;
- (d) Any injury suffered by, or any danger or risk of injury to, the defendant or his or her family resulting from his or her assistance;
- (e) The timelines of the defendant's assistance; and
- (f) Any other information placed in the record by the Commonwealth.

➔Section 10. KRS 439.340 is amended to read as follows:

- (1) The board may release on parole persons confined in any adult state penal or correctional institution of Kentucky or sentenced felons incarcerated in county jails eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his or her admission to an adult state penal or correctional institution or county jail if he or she is a sentenced felon, and at such intervals thereafter as it may determine, the Department of Corrections shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. The information shall include the results of his or her most recent risk and needs assessment, his or her criminal record, his or her conduct, employment, and the reports of physical and mental examinations that have been made. The Department of Corrections shall furnish the circumstances of his or her offense, the results of his or her most recent risk and needs assessment, and his or her previous social history to the board. The Department of Corrections shall prepare a report on any information it obtains. It shall be the duty of the Department of Corrections to supplement this report with any material the board may request and submit the report to the board.



- (2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner, including the results of his or her most recent risk and needs assessment, and shall have him or her appear before it for interview and hearing. The board in its discretion may hold interviews and hearings for prisoners convicted of Class C felonies not included within the definition of "violent offender" in KRS 439.3401 and Class D felonies. The board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his or her proper employment or for his or her maintenance and care, and when the board believes he or she is able and willing to fulfill the obligations of a law abiding citizen. Notwithstanding any statute to the contrary, including KRS 440.330, when a prisoner is otherwise eligible for parole and the board has recommended parole for that prisoner for the reasons set forth in this subsection, the board may grant parole to any prisoner wanted as a fugitive by any other jurisdiction, and the prisoner shall be released to the detainer from that jurisdiction. Such parole shall not constitute a relinquishment of jurisdiction over the prisoner, and the board in all cases expressly reserves the right to return the prisoner to confinement in a correctional institution of the Commonwealth if the prisoner violates the terms of his or her parole.
- (3) (a) A nonviolent offender convicted of a Class D felony with an aggregate sentence of one (1) to five (5) years who is confined to a state penal institution or county jail shall have his or her case reviewed by the Parole Board after serving fifteen percent (15%) or two (2) months of the original sentence, whichever is longer.

- (b) Except as provided in this section, the board shall adopt administrative regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings and all other matters that come before it, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria and risk and needs assessment information; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with other factors involved that would relate to the inmate's needs and the safety of the public.
- (4) The board shall insure that all sentenced felons who have longer than ninety (90) days to serve in state penal institutions, halfway houses, and county jails are considered for parole not less than sixty (60) days prior to their parole eligibility date, and the Department of Corrections shall provide the necessary assistance and information to the board in order for it to conduct timely parole reviews.
- (5) In addition to or in conjunction with each hearing conducted under subsection (2) of this section for any prisoner convicted of a Class A, B, or C felony and prior to the granting of a parole to any such prisoner, the parole board shall conduct a hearing of which the following persons shall receive not less than forty-five (45) nor more than ninety (90) days' notice: the Commonwealth's attorney who shall notify the sheriff of every county and the chief of police of every city and county in which the prisoner committed any Class A, B, or C felony for which he or she is imprisoned, and all identified victims of the crimes or the next of kin of any victim who is deceased. Notice to the Commonwealth's attorney shall be by mail, fax, or electronic means at the discretion of the board, and shall be in a manner that ensures receipt at the Commonwealth attorney's business office. Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police

employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the Parole Board. Notice to victims or their next of kin shall be made, for prisoners incarcerated prior to July 15, 1986, by mail, fax, or electronic means at the discretion of the board, and shall be in a manner that ensures receipt by the Commonwealth's attorney, who shall forward the notice promptly to the victims or their next of kin at their last known address. For prisoners incarcerated on or after July 15, 1986, notice to the victims or their next of kin shall be by mail from the Parole Board to their last known address as provided by the Commonwealth's attorney to the Parole Board at the time of incarceration of the prisoner. Notice to the victim or the next of kin of subsequent considerations for parole after the initial consideration shall not be sent if the victim or the next of kin gives notice to the board that he or she no longer wants to receive such notices. The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write if the recipient of the notice desires to attend the hearing or to submit written comments.

- (6) Persons receiving notice as provided for in subsection (5) of this section may submit comments, in person or in writing, to the board upon all issues relating to the parole of the prisoner. The board shall read and consider all comments prior to making its parole decision, if they are received by the board not less than seven (7) days before the date for the hearing. The board shall retain all comments in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decisions affecting the prisoner. In addition to officers listed in subsection (5) of this section, the crime victims or the next of kin of any victim who is deceased or who is disabled and cannot attend the hearing or the parent or legal guardian of any victim who is a minor may attend the hearing provided for in subsection (5) of this section and present oral and written comments upon all issues relating to the parole of the prisoner, if they have advised the board, in writing

received by the board not less than seven (7) days prior to the date set for the hearing, of their intention to attend the hearing. The board shall receive and consider all comments, shall make a record of them which it shall retain in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decision affecting the prisoner. Persons appearing before the Parole Board pursuant to this subsection may elect to make their presentations outside of the presence of the prisoner.

- (7) Victims of Class D felonies may submit comments in person or in writing to the board upon all issues relating to the parole of a prisoner.
- (8) Any hearing provided for in subsections (5), (6), and (7) of this section shall be open to the public unless the persons having a right to appear before the board as specified in those subsections request closure of hearing for reasons of personal safety, in which event the hearing shall be closed. The time, date, and location of closed hearings shall not be disclosed to the public.
- (9) Except as specifically set forth in this section, nothing in this section shall be deemed to expand or abridge any existing rights of persons to contact and communicate with the Parole Board or any of its members, agents, or employees.
- (10) The unintentional failure by the Parole Board, sheriff, chief of police, or any of its members, agents, or employees or by a Commonwealth's attorney or any of his or her agents or employees to comply with any of the provisions of subsections (5), (6), and (8) of this section shall not affect the validity of any parole decision or give rise to any right or cause of action by the crime victim, the prisoner, or any other person.
- (11) **No person convicted of a trafficking offense under KRS Chapter 218A shall be granted parole unless he or she has successfully completed or is required to participate in a substance abuse treatment or education program approved or operated by the Department of Corrections.**

(12) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be granted parole unless he or she has successfully completed the Sexual Offender Treatment Program.

(13)~~(12)~~ Any prisoner who is granted parole after completion of the Sexual Offender Treatment Program shall be required, as a condition of his or her parole, to participate in regular treatment in a mental health program approved or operated by the Department of Corrections.

(14)~~(13)~~ When the board grants parole contingent upon completion of a program, the commissioner, or his or her designee, shall determine the most appropriate placement in a program operated by the department or a residential or nonresidential program within the community approved by the department. If the department releases a parolee to a nonresidential program, the department shall release the parolee only if he or she will have appropriate community housing pursuant to KRS 439.3408.

(15)~~(14)~~ If the parole board does not grant parole to a prisoner, the maximum deferment for a prisoner convicted of a non-violent, non-sexual Class C or Class D felony shall be twenty-four (24) months. For all other prisoners who are eligible for parole:

- (a) No parole deferment greater than five (5) years shall be ordered unless approved by a majority vote of the full board; and
- (b) No deferment shall exceed ten (10) years, except for life sentences.

(16)~~(15)~~ When an order for parole is issued, it shall recite the conditions thereof.

➔Section 11. KRS 625.050 is amended to read as follows:

- (1) A petition for involuntary termination of parental rights shall be entitled "In the interest of ..., a child."
- (2) The petition shall be filed in the Circuit Court for any of the following counties:
  - (a) The county in which either parent resides or may be found;

- (b) The county in which juvenile court actions, if any, concerning the child have commenced; or
  - (c) The county in which the child involved resides or is present.
- (3) Proceedings for involuntary termination of parental rights may be initiated upon petition by the cabinet, any child-placing agency licensed by the cabinet, any county or Commonwealth's attorney or parent.
- (4) The petition for involuntary termination of parental rights shall be verified and contain the following:
- (a) Name and mailing address of each petitioner;
  - (b) Name, sex, date of birth and place of residence of the child;
  - (c) Name and address of the living parents of the child;
  - (d) Name, date of death and cause of death, if known, of any deceased parent;
  - (e) Name and address of the putative father, if known by the petitioner, of the child if not the same person as the legal father;
  - (f) Name and address of the person, cabinet or agency having custody of the child;
  - (g) Name and identity of the person, cabinet or authorized agency to whom custody is sought to be transferred;
  - (h) Statement that the person, cabinet or agency to whom custody is to be given has facilities available and is willing to receive the custody of the child;
  - (i) All pertinent information concerning termination or disclaimers of parenthood or voluntary consent to termination;
  - (j) Information as to the legal status of the child and the court so adjudicating;  
and
  - (k) A concise statement of the factual basis for the termination of parental rights.
- (5) No petition may be filed under this section prior to five (5) days after the birth of the child.

**(6) No petition may be filed to terminate the parental rights of a woman solely because of her use of a controlled substance during pregnancy if she, by the twentieth week of her pregnancy, enrolls in and maintains compliance with both a substance abuse treatment or recovery program and a regimen of prenatal care as recommended by her health care practitioner throughout the remaining term of her pregnancy.**

➔Section 12. KRS 439.3405 is amended to read as follows:

- (1) Notwithstanding any statute eliminating parole or establishing minimum time for parole eligibility for a certain class or status of offender, including KRS 439.340(~~12~~)(~~11~~), 439.3401, 532.080(7), and 533.060, the board, with the written consent of a majority of the full board, may review the case of any prisoner and release that prisoner on parole despite any elimination of or minimum time for parole eligibility, when the prisoner has a documented terminal medical condition likely to result in death within one (1) year or severe chronic lung disease, end-stage heart disease, severe neuro-muscular disease such as multiple sclerosis; or has severely limited mobility as a result of stroke, disease, or trauma; or is dependent on external life support systems and would not pose a threat to society if paroled.
- (2) Medical information considered under this section shall be limited to the medical findings supplied by Department of Corrections medical staff. The medical staff shall provide in writing the prisoner's diagnosis and prognosis in support of the conclusion that the prisoner suffers from a terminal medical condition likely to result in death within one (1) year or because of the conditions set forth in subsection (1) of this section he or she is substantially dependent on others for the activities of daily living.
- (3) The medical information prepared by the Department of Corrections medical staff under this section shall be forwarded to the medical director of the Department of Corrections who shall submit that information and a recommendation for or against

parole review under this section to the commissioner of the Department of Corrections or his or her designee. With the approval of the commissioner of the Department of Corrections, a request for parole review under this section, along with the medical information and medical director's recommendation, shall be submitted to the board.

- (4) Medical information presented under this section shall be considered along with other information relevant to a decision regarding the granting of parole and shall not constitute the only reason for granting parole.
- (5) Notwithstanding KRS 439.340(5), in addition to or in conjunction with each review conducted under subsection (1) of this section for any prisoner convicted of a Class A or B felony, or of a Class C felony involving violence or a sexual offense and prior to the granting of parole to any such prisoner, the Parole Board shall conduct a hearing of which the following persons shall receive not less than fifteen (15) nor more than thirty (30) days' notice:
  - (a) The Commonwealth's attorney, who shall notify the sheriff of every county and the chief of police of every city and county in which the prisoner committed any Class A, B, or C felony for which he or she is imprisoned; and
  - (b) All identified victims of the crimes or the next of kin of any victim who is deceased.

Notice to the Commonwealth's attorney shall be by mail, fax, or electronic means, at the discretion of the board, and shall be in a manner that ensures receipt at the Commonwealth attorney's business office. Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the Parole Board. Notice to victims or their next of kin shall be made by mail, fax, or electronic means, at the discretion of the board, to their last known address or telephone number as provided by the



Commonwealth's attorney to the Parole Board at the time of incarceration of the prisoner. Notice to the victim or the next of kin of subsequent considerations for parole after the initial consideration shall not be sent if the victim or the next of kin gives notice to the board that he or she no longer wants to receive such notices. The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write if the recipient of the notice desires to attend the hearing or to submit written comments.

➔Section 13. KRS 640.030 is amended to read as follows:

A youthful offender, who is convicted of, or pleads guilty to, a felony offense in Circuit Court, shall be subject to the same type of sentencing procedures and duration of sentence, including probation and conditional discharge, as an adult convicted of a felony offense, except that:

- (1) The presentence investigation required by KRS 532.050 shall be prepared by the Department of Juvenile Justice or by its designated representative;
- (2) Except as provided in KRS 640.070, any sentence imposed upon the youthful offender shall be served in a facility or program operated or contracted by the Department of Juvenile Justice until the expiration of the sentence, the youthful offender is paroled, the youthful offender is probated, or the youthful offender reaches the age of eighteen (18), whichever first occurs. The Department of Juvenile Justice shall take custody of a youthful offender, remanded into its custody, within sixty (60) days following sentencing. If an individual sentenced as a youthful offender attains the age of eighteen (18) prior to the expiration of his sentence, and has not been probated or released on parole, that individual shall be returned to the sentencing court. At that time, the sentencing court shall make one (1) of the following determinations:
  - (a) Whether the youthful offender shall be placed on probation or conditional discharge;

- (b) Whether the youthful offender shall be returned to the Department of Juvenile Justice to complete a treatment program, which treatment program shall not exceed the youthful offender's attainment of the age of eighteen (18) years and five (5) months. At the conclusion of the treatment program, the individual shall be returned to the sentencing court for a determination under paragraph (a) or (c) of this subsection; or
  - (c) Whether the youthful offender shall be incarcerated in an institution operated by the Department of Corrections;
- (3) If a youthful offender has attained the age of eighteen (18) years but less than eighteen (18) years and five (5) months prior to sentencing, that individual shall be returned to the sentencing court upon attaining the age of eighteen (18) years and five (5) months if that individual has been sentenced to a period of placement or treatment with the Department of Juvenile Justice. The court shall have the same dispositional options as currently provided in subsection (2)(a) and (c) of this section;
- (4) The Department of Juvenile Justice shall inform the sentencing court of any youthful offender in their custody pursuant to this section who has attained the age of eighteen (18) years and five (5) months, and the court shall enter a court order directing the sheriff or jailer to transport the youthful offender to the county jail to await sentencing pursuant to subsection (2)(a) or (c) of this section; and
- (5) KRS 197.420 to the contrary notwithstanding, a youthful offender who has committed a sex crime, as defined in KRS 17.500, or any similar offense in another jurisdiction shall be provided a sexual offender treatment program by the Department of Juvenile Justice pursuant to KRS 635.500 and as mandated by KRS 439.340(12)~~(11)~~ unless the youthful offender has been transferred to the Department of Corrections.

➔Section 14. The Department of Corrections is encouraged to provide written,

oral, audio, or video materials to all inmates housed in correctional institutions within the Commonwealth, including adult correctional facilities operating under KRS 197.505 to 197.525, concentrating on educating inmates on Kentucky's drug trafficking laws under KRS Chapter 218A, including but not limited to the type of illegal activities that violate the provisions of Kentucky's drug trafficking statutes, the associated penalties for violations of KRS Chapter 218A, and available substance abuse treatment and education programs operated by the Department of Corrections and other government agencies.

➔Section 15. It is strongly encouraged that every public middle school and high school administrator disseminate age-appropriate educational material relating to the potential dangers of heroin abuse to all middle and high school students from the Kentucky Center for School Safety, Kentucky Office of Drug Control Policy, or from a commercially developed substance abuse treatment program.

➔Section 16. This Act shall be known and may be cited as the "Heroin Impact Act."

➔Section 17. Whereas the illegal substances addressed in this Act pose a clear and present danger to the health and safety of Kentucky's citizens and no just cause exists for delay, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.