

1 AN ACT relating to crimes and punishments and making an appropriation therefor.

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

3 ➔Section 1. KRS 453.190 is amended to read as follows:

- 4 (1) A court shall allow a poor person residing in this state to file or defend any action or
5 appeal therein without paying costs, whereupon he shall have any counsel that the
6 court assigns him and shall have from all officers all needful services and process,
7 including the preparation of necessary transcripts for appeal, without any fees,
8 except such as are included in the costs recovered from the adverse party, and shall
9 not be required to post any bond except in an amount and manner reasonable under
10 the circumstances of his poverty.
- 11 (2) A "poor person" means a person who ***has an income at or below one hundred***
12 ***percent (100%) on the sliding scale of indigency established by the Supreme***
13 ***Court of Kentucky by rule or*** is unable to pay the costs and fees of the proceeding
14 in which he is involved without depriving himself or his dependents of the
15 necessities of life, including food, shelter, or clothing.
- 16 (3) Application to proceed without payment of costs and fees, pursuant to subsection
17 (1) herein, shall be made by motion supported by the affidavit of the applicant
18 stating the reasons that he is unable to pay the costs and fees or give security
19 therefor.
- 20 (4) No inmate shall be automatically allowed to proceed through the courts in forma
21 pauperis by virtue of his status as an inmate, nor shall his incarceration lead to a
22 presumption of impoverishment, or constitute evidence of a rebuttable presumption
23 of impoverishment.
- 24 (5) A court may consider the value of all of the benefits an inmate receives by virtue of
25 his incarceration and for which the inmate has not monetarily reimbursed the
26 Commonwealth, including, among other things, the value of his room, board,
27 medical care, dental care, recreational programming, educational opportunities

1 offered to the inmate, legal services provided to the inmate without cost, clothing,
 2 laundry, guard protection services, or any other benefit similarly conferred upon the
 3 inmate.

4 ➔Section 2. KRS 23A.205 is amended to read as follows:

- 5 (1) Court costs for a criminal case in the Circuit Court shall be one hundred dollars
 6 (\$100).
- 7 (2) The taxation of court costs against a defendant, upon conviction in a case, shall be
 8 mandatory and shall not be subject to probation, suspension, proration, deduction,
 9 or other form of nonimposition in the terms of a plea bargain or otherwise, unless
 10 the court finds that the defendant is a poor person as defined by KRS 453.190(2)
 11 and that he or she is unable to pay court costs and will be unable to pay the court
 12 costs in the foreseeable future.
- 13 (3) If the court finds that the defendant does not meet the standard articulated in
 14 subsection (2) of this section and that the defendant is nonetheless unable to pay the
 15 full amount of the court costs, ~~and~~ fees, or fines at the time of sentencing, then the
 16 court ~~shall establish a show cause date by which time the court costs, fees, and~~
 17 ~~fees shall be paid and~~ may establish an installment payment plan in accordance
 18 with Section 4 of this Act ~~whereby the defendant pays the full amount of the court~~
 19 ~~costs, fees, and fines to the circuit clerk in installments as established by the court.~~
 20 ~~All court costs and fees under the installment plan shall be paid within one (1) year~~
 21 ~~of the date of sentencing notwithstanding any remaining restitution or other~~
 22 ~~monetary penalty owed by the defendant and arising out of the conviction.~~
 23 ~~Installment payments will be applied first to court costs, then to restitution, then to~~
 24 ~~fees, and then to fines].~~

25 ➔Section 3. KRS 24A.175 is amended to read as follows:

- 26 (1) Court costs for a criminal case in the District Court shall be one hundred dollars
 27 (\$100), regardless of whether the offense is one for which prepayment is permitted.

- 1 (2) There shall be no court costs for a parking citation when:
- 2 (a) The fine is paid to the clerk before the trial date in the same manner as
- 3 provided for speeding citations under KRS 189.394(3); and
- 4 (b) The citation does not involve parking in a fire lane or blocking the traveled
- 5 portion of the highway.
- 6 (3) The taxation of court costs against a defendant, upon conviction in a case, including
- 7 persons sentenced to state traffic school as provided under KRS 186.574, shall be
- 8 mandatory and shall not be subject to probation, suspension, proration, deduction,
- 9 or other form of nonimposition in the terms of a plea bargain or otherwise, unless
- 10 the court finds that the defendant is a poor person as defined by KRS 453.190(2)
- 11 and that he or she is unable to pay court costs and will be unable to pay the court
- 12 costs in the foreseeable future.
- 13 (4) If the court finds that the defendant does not meet the standard articulated in
- 14 subsection (3) of this section and that the defendant is nonetheless unable to pay the
- 15 full amount of the court costs, fees, ~~or~~~~and~~ fines at the time of sentencing, then the
- 16 court ~~shall establish a show cause date by which time court costs, fees, and fines~~
- 17 ~~shall be paid and~~ may establish an installment payment plan ***in accordance with***
- 18 ***Section 4 of this Act***~~[whereby the defendant pays the full amount of the court costs,~~
- 19 ~~fees, and fines to the circuit clerk in installments as established by the court. The~~
- 20 ~~court costs, fees, and fines under the installment plan shall be paid within one (1)~~
- 21 ~~year of the date of sentencing notwithstanding any remaining restitution or other~~
- 22 ~~monetary penalty owed by the defendant and arising out of the conviction.~~
- 23 ~~Installment payments will be applied first to court costs, then to restitution, then to~~
- 24 ~~fees, and then to fines].~~
- 25 (5) Notwithstanding any other provision to the contrary, the court shall not adjudicate a
- 26 traffic violation involving a defendant who is under the age of eighteen (18), unless
- 27 the person that assumed liability of the minor under the provisions of KRS 186.590

1 is present. This subsection shall not apply to emancipated minors.

2 ➔Section 4. KRS 534.020 is amended to read as follows:

3 (1) When a defendant is sentenced to pay **court costs, fees, or fines**~~[a fine]~~, the court
4 may provide for payment to be made within a specified period of time or in
5 specified installments. If no such provision is made a part of the sentence, then the
6 **court costs, fees, or fines**~~[fine]~~ shall be payable forthwith.

7 (2) **If the court establishes an installment payment plan for a defendant to pay the**
8 **full amount of court costs, fees, or fines:**

9 (a) **The defendant shall be given notice of the total amount due, the payment**
10 **frequency, and the date by which all payments must be made. The notice**
11 **shall indicate that if the defendant has not complied with the installment**
12 **payment plan by the scheduled date, he or she shall appear on that date to**
13 **show good cause as to why he or she is unable to satisfy the obligations.**
14 **This notice shall be given to the defendant in writing on a form provided by**
15 **the Administrative Office of the Courts;**

16 (b) **Except as provided in subsection (3) of this section, all court costs, fees, and**
17 **fees shall be paid within one (1) year of the date of sentencing**
18 **notwithstanding any remaining restitution or other monetary penalty owed**
19 **by the defendant and arising out of the conviction; and**

20 (c) **Installment payments shall be applied first to court costs, then to restitution,**
21 **then to fees, and then to fines.**

22 (3) (a) **If a defendant is required to appear at a show cause hearing pursuant to**
23 **subsection (2)(a) of this section, the court shall determine whether the**
24 **defendant's default in payment of court costs, fees, or fines is:**

25 **1. Excusable due to an inability to pay, and if so, the court may enter an**
26 **order allowing additional time for payment, reducing the amount of**
27 **each installment, or modifying the manner of payment in any other**

1 way; or

2 2. Willful and not due to an inability to pay, and if so, the court may
 3 order the defendant to jail on the condition that the defendant shall be
 4 released upon payment or completion of daily credit pursuant to
 5 Section 6 of this Act.

6 (b) If the defendant fails to appear at the show cause hearing, the court may
 7 issue a warrant for the defendant's arrest. Any warrant for arrest issued for
 8 nonpayment of court costs, fees, or fines pursuant to this subsection shall
 9 include a notice to the jailer that the defendant shall be released upon
 10 payment or completion of daily credit pursuant to Section 6 of this Act.

11 (4) When a defendant is sentenced to pay court costs, fees, or fines~~[a fine]~~, an
 12 alternative sentence of imprisonment that is to be served in the event the court
 13 costs, fees, or fines are~~[fine is]~~ not paid shall not be imposed at the same time. The
 14 response of a court to nonpayment~~[of a fine]~~ shall be determined only after:

15 (a) The court costs, fees, or fines have~~[fine has]~~ not been paid; and~~[,]~~

16 (b) 1. The show cause hearing has been held pursuant to subsections (2)(a)
 17 and (3)(a) of this section; or

18 2. The defendant has failed to appear at the show cause hearing as
 19 outlined in subsection (3)(b) of this section~~[and as provided in KRS~~
 20 ~~24A.175 or 534.060].~~

21 (5) Court costs, fees, or fines being paid under an installment payment plan that is
 22 actively monitored by the court shall not be reported as part of the inventory of
 23 liquidated debt pursuant to KRS 45.241.

24 ➔Section 5. KRS 534.060 is amended to read as follows:

25 ~~[(1) When an individual sentenced to pay a fine defaults in the payment of the fine or~~
 26 ~~any installment, the court upon motion of the prosecuting attorney or upon its own~~
 27 ~~motion may require him to show cause why he should not be imprisoned for~~

1 ~~nonpayment. The court may issue a warrant of arrest or a summons for his~~
 2 ~~appearance.~~

3 ~~(2) Following an order to show cause under subsection (1) of this section, unless the~~
 4 ~~defendant shows that his default was not attributable to an intentional refusal to~~
 5 ~~obey the sentence of the court and not attributable to a failure on his part to make a~~
 6 ~~good faith effort to obtain the necessary funds for payment, the court may order the~~
 7 ~~defendant imprisoned for a term not to exceed:~~

8 ~~(a) Six (6) months, if the fine was imposed for the conviction of a felony; or~~

9 ~~(b) One third (1/3) of the maximum authorized term of imprisonment for the~~
 10 ~~offense committed, if the fine was imposed for conviction of a misdemeanor;~~
 11 ~~or~~

12 ~~(c) Ten (10) days, if the fine was imposed for conviction of a violation.~~

13 ~~(3) If the default in payment of a fine is determined to be excusable under the standards~~
 14 ~~set forth in subsection (2) of this section, the court may enter an order allowing the~~
 15 ~~defendant additional time for payment, reducing the amount of each installment, or~~
 16 ~~modifying the manner of payment in any other way.~~

17 ~~(4) When a fine is imposed on a corporation, it is the duty of the person or persons~~
 18 ~~authorized to make disbursement of the assets of the corporation and their superiors to~~
 19 ~~pay the fine from assets of the corporation. The failure of such persons to do so shall~~
 20 ~~render them subject to imprisonment under subsections (1) and (2) of this section.~~

21 ~~[(5) Following a default in the payment of a fine or any installment thereof, the fine may~~
 22 ~~be collected by any means authorized for the enforcement of money judgments~~
 23 ~~rendered in favor of the Commonwealth.]~~

24 ➔ Section 6. KRS 534.070 is amended to read as follows:

25 (1) A defendant who has been sentenced to jail for failure to pay ~~[\del a fine or]~~ court costs,
 26 fees, or fines or for failure to appear in court on a date set for the sole purpose of
 27 addressing nonpayment of ~~[\del a fine or]~~ court costs, fees, or fines shall receive credit

1 against the ~~court~~~~[fine and]~~ costs, fees, or fines owed for each day the defendant
2 spends in jail at the following rates:

3 (a) Fifty dollars (\$50) per day if the defendant does not work at a community
4 service or community labor program; or

5 (b) One hundred dollars (\$100) per day if the defendant works eight (8) hours per
6 day at a community service or community labor program. If the defendant
7 works less than eight (8) hours in a community service or community labor
8 program, the defendant shall be allowed an amount of one-eighth (1/8) of the
9 one hundred dollars (\$100) for each hour worked in a community service or
10 community labor program.

11 (2) Credit against~~[a fine or]~~ court costs, fees, or fines earned by a defendant pursuant
12 to this section shall prohibit the collection of any part of ~~court~~~~[a fine or]~~ costs, fees,
13 or fines which has been credited pursuant to this section, and that portion of the
14 ~~court~~~~[fine or]~~ costs, fees, or fines shall be considered paid.

15 (3) (a) The jailer shall be responsible for monitoring a defendant's community service
16 and tracking the number of days to be served to pay any outstanding~~[fine or]~~
17 court costs, fees, or fines.

18 (b) Unless the defendant is incarcerated pursuant to orders in other cases, upon
19 the service of sufficient days in jail to have sufficient credit to satisfy the
20 court costs, fees, or fines, the defendant shall be released from jail.

21 (4) If a partial payment is made by the defendant or on behalf of a defendant, that
22 payment shall be applied first to court costs, then to fees, and then to fines pursuant
23 to Section 4 of this Act~~[KRS 23A.205 or 24A.175]~~ prior to the application of any
24 credit earned pursuant to this section. Credit earned pursuant to this section shall
25 not be applied to restitution.

26 ➔Section 7. KRS 45.237 is amended to read as follows:

27 (1) As used in KRS 45.237 to 45.239:

- 1 (a) "Agency" means an organizational unit or administrative body in the
2 executive branch of state government as defined in KRS 12.010;
- 3 (b) "Cabinet" means the Finance and Administration Cabinet;
- 4 (c) "Court of Justice" means the Administrative Office of the Courts, all courts,
5 and all clerks of the courts;
- 6 (d) "Debt" means:
- 7 1. For agencies, a sum certain which has been certified as due and owing;
- 8 2. For local governments, a sum certain which has been certified as due
9 and owing, including but not limited to any delinquent taxes or fees
10 other than delinquent real and personal property taxes; and
- 11 3. For the Court of Justice, a legal debt, including any fine, fee, court costs,
12 or restitution due the Commonwealth, which have been imposed by a
13 final sentence of a trial court of the Commonwealth and for which the
14 time permitted for payment pursuant to Section 4 of this Act~~[KRS~~
15 ~~23A.205(3) or 24A.175(4)]~~ has expired;
- 16 (e) "Department" means the Department of Revenue;
- 17 (f) "Improper payment" means a payment made to a vendor, provider, or recipient
18 due to error, fraud, or abuse; and
- 19 (g) "Local government" means any city, county, urban-county government,
20 consolidated local government, charter county government, or unified local
21 government of the Commonwealth.
- 22 (2) The cabinet shall develop for the executive branch of state government a system of
23 internal controls and preaudit policies and procedures applicable to disbursement
24 transactions for the purpose of prevention and detection of errors or fraud and abuse
25 prior to the issuance of a check or warrant. The initial policies and procedures shall
26 focus first on programs or activities that expend the most federal and general fund
27 dollars. The cabinet shall develop preaudit procedures that meet the unique needs of

1 each agency.

2 (3) In establishing these systems of internal control and preaudit policies and
3 procedures, the cabinet shall:

4 (a) Consult with each agency within the executive branch to ascertain its unique
5 fraud risks;

6 (b) Establish policies and procedures for agency-level oversight of fraud risks,
7 including risk assessment, risk tolerance, and management policies, and fraud-
8 prevention processing controls;

9 (c) Establish systems and procedures for detecting both unintentional errors and
10 fraudulent misrepresentations that may have occurred in vendor invoices
11 submitted for payment, applications submitted for benefits, claims for refunds
12 of amounts previously paid or withheld, and other disbursements;

13 (d) Establish systems and procedures for preventing and detecting unintentional
14 errors and the fraudulent disbursement of funds by state government
15 employees in the processing, approving, and paying of invoices, refunds,
16 vouchers, benefit payments, and other disbursements; and

17 (e) Consult with the state Auditor of Public Accounts, the Commonwealth Office
18 of Technology, the American Institute of Certified Public Accountants, the
19 Association of Certified Fraud Examiners, law enforcement agencies, or any
20 other entity with knowledge and expertise in the detection and prevention of
21 fraud.

22 (4) Each agency shall diligently attempt to collect amounts paid to a vendor, provider,
23 or recipient due to error, fraud, or abuse for sixty (60) days after the improper
24 payment is discovered. If the improper payment has not been recovered after sixty
25 (60) days, the agency shall certify the improper payment as a debt of the agency and
26 shall refer all certified debts to the department.

27 (5) A local government may, after making reasonable efforts to collect its debts, by

1 ordinance, resolution, or otherwise pursuant to law, certify its debts that have been
2 due and owing for more than ninety (90) days to the department for collection. The
3 department may, by administrative regulation promulgated in accordance with KRS
4 Chapter 13A, prescribe the form and format of, and the information required in,
5 referrals by a local government, which may be required to be made electronically.

6 (6) Any funds recovered by an agency within the sixty (60) day collection period
7 allowed under subsection (4) of this section and prior to referral to the department
8 shall be allocated to the fund from which the improper payment was expended.

9 (7) Each agency shall submit annual summaries of debts due to error, fraud, or abuse,
10 improper payments discovered, and certified debts referred to the department to the
11 Legislative Research Commission. These summaries shall include but not be
12 limited to:

13 (a) Debts owed the Commonwealth that have been identified by the agency, in
14 accordance with the preaudit procedures established under this section, as
15 those resulting from error, fraud, or abuse, of either the payee or the state
16 agency;

17 (b) The aggregate amount of money collected by the agency on those debts during
18 the sixty (60) day period allowed under subsection (4) of this section; and

19 (c) The aggregate amount of certified debts that the agency referred to the
20 department.

21 (8) Each agency shall provide information about each debt due to error, fraud, or abuse
22 that is certified under this section to the State Treasurer for the Treasurer's action
23 under KRS 44.030(1).

24 (9) Each local government shall, where feasible, provide information about each debt
25 that is certified pursuant to this section to the State Treasurer for the Treasurer's
26 action under KRS 44.030(1).

27 ➔Section 8. KRS 45.241 is amended to read as follows:

- 1 (1) As used in this section:
- 2 (a) "Debt" means:
- 3 1. For agencies, a sum certain which has been certified by an agency as due
- 4 and owing; and
- 5 2. For local governments, a sum certain which has been certified by a local
- 6 government as due and owing, including but not limited to any
- 7 delinquent taxes or fees other than delinquent real and personal property
- 8 taxes;
- 9 (b) "Liquidated debt" means:
- 10 1. For agencies, a legal debt for a sum certain which has been certified by
- 11 an agency as final due and owing, all appeals and legal actions having
- 12 been exhausted;
- 13 2. For local governments, a legal debt for a sum certain which has been
- 14 certified by a local government as final due and owing, all appeals and
- 15 legal actions having been exhausted, including but not limited to any
- 16 delinquent taxes or fees other than delinquent real and personal property
- 17 taxes; and
- 18 3. For the Court of Justice, a legal debt including any fine, fee, court costs,
- 19 or restitution due the Commonwealth, which have been imposed by a
- 20 final sentence of a trial court of the Commonwealth and for which the
- 21 time permitted for payment pursuant to the provisions of Section 4 of
- 22 this Act~~[KRS 23A.205(3) or 24A.175(4)]~~ has expired;
- 23 (c) "Agency" means an organizational unit or administrative body in the
- 24 executive branch of state government, as defined in KRS 12.010;
- 25 (d) "Department" means the Department of Revenue;
- 26 (e) "Court of Justice" means the Administrative Office of the Courts, all courts,
- 27 and all clerks of the courts;

- 1 (f) "Forgivable loan agreement" means a loan agreement entered into between an
2 agency and a borrower that establishes specific conditions, which, if satisfied
3 by the borrower, allows the agency to forgive a portion or all of the loan;
- 4 (g) "Improper payment" means a payment made to a vendor, provider, or recipient
5 due to error, fraud, or abuse; and
- 6 (h) "Local government" means any city, county, urban-county government,
7 consolidated local government, charter county, or unified local government of
8 the Commonwealth.
- 9 (2) Each agency and the Court of Justice shall develop, maintain, and update in a timely
10 manner an ongoing inventory of each debt owed to it, including debts due to
11 improper payments, and shall make every reasonable effort to collect each debt.
12 Within sixty (60) days after the identification of a debt, each agency shall begin
13 administrative action to collect the debt.
- 14 (3) The Auditor of Public Accounts shall review each agency's debt identification and
15 collection procedures as part of the annual audit of state agencies.
- 16 (4) An agency shall not forgive any debt owed to it unless that agency has entered into a
17 forgivable loan agreement with a borrower, or unless otherwise provided by statute.
- 18 (5) For those agencies without statutory procedures for collecting debts, the Department
19 of Revenue shall promulgate administrative regulations in accordance with KRS
20 Chapter 13A to prescribe standards and procedures with which those agencies shall
21 comply regarding collection of debts, notices to persons owing debt, information to
22 be monitored concerning the debts, and an appeals process.
- 23 (6) (a) Each agency and the Court of Justice shall identify all liquidated debts,
24 including debts due to improper payments, and shall submit a list of those
25 liquidated debts in the form and manner prescribed by the department to the
26 department for review. The department shall review the information submitted
27 by the agencies and the Court of Justice and shall, within ninety (90) days of

1 receipt of the information, determine whether it would be cost-effective for
2 the department to further pursue collection of the liquidated debts.

3 (b) A local government, after making reasonable efforts to collect its debts, may
4 by ordinance, resolution, or otherwise pursuant to law, submit a list of its
5 liquidated debts that have been due and owing for more than ninety (90) days
6 to the department for review to determine whether it would be cost-effective
7 for the department to pursue collection of the liquidated debts. The
8 department shall review the information submitted by a local government and
9 shall, within ninety (90) days of receipt of the information, determine whether
10 it would be cost-effective for the department to further pursue collection of the
11 liquidated debts.

12 (c) The department may, after consultation with the agency, Court of Justice, or a
13 local government, return the liquidated debt to the entity submitting the
14 liquidated debt if:

- 15 1. The request for review contains insufficient information; or
- 16 2. The debt is not feasible to collect.

17 Any return of a liquidated debt shall be in writing, and shall state why the debt
18 is being returned.

19 (d) The department shall identify in writing to the submitting agency, Court of
20 Justice, or local government, the liquidated debts it has determined that it can
21 pursue in a cost-effective manner, and the agency, Court of Justice, or local
22 government shall officially refer the identified liquidated debts to the
23 department for collection.

24 (e) The agency, Court of Justice, and local government shall retain a complete
25 record of all liquidated debts referred to the department for collection until the
26 debt is collected, forgiven, or returned as uncollectible.

27 (f) Each agency, the Court of Justice, and local government shall make

1 appropriate accounting of any uncollected debt as prescribed by law.

2 (7) (a) If the agency recovers the debt funds prior to referral to the department, the
3 agency shall retain the collected funds in accordance with its statutory
4 authority.

5 (b) 1. Upon referral of a liquidated debt to the department, the liquidated debt
6 shall accrue the following amounts:

7 a. Interest on the total amount of the debt plus legal accruals at the
8 tax interest rate provided in KRS 131.183, from the time of referral
9 until paid; and

10 b. A one (1) time twenty-five percent (25%) collection fee on the
11 total amount of the debt plus legal accruals, as of the time of
12 referral;

13 unless the interest and collection fee are waived by the department.

14 2. The interest and collection fee shall be in addition to any other costs
15 accrued prior to the time of referral.

16 3. The department may deduct and retain from the liquidated debt
17 recovered an amount equal to the lesser of the collection fee or the
18 actual expenses incurred in the collection of the debt.

19 4. In the case of agencies and the Court of Justice, any funds recovered by
20 the department after the deduction of the department's cost of collection
21 expenses may, at the discretion of the secretary of the Finance and
22 Administration Cabinet, be returned to the agency identifying the
23 liquidated debt or to the Court of Justice for allocation as otherwise
24 provided by law. If the recovered funds and interest are not returned to
25 the agency or Court of Justice, the amounts shall be deposited in the
26 general fund, except for Medicaid benefits funds and funds required by
27 law to be remitted to a federal agency, which shall be remitted as

1 required by law.

2 5. In the case of local governments, any funds recovered by the department
3 after the deduction of the department's cost of collection expenses shall
4 be returned to the local government referring the liquidated debt, for
5 allocation as provided by ordinance, resolution, or as otherwise provided
6 by law.

7 (c) Nothing in this section shall prohibit the department from entering into a
8 memorandum of agreement with an agency pursuant to KRS 131.130(11), for
9 collection of debts prior to liquidation. If an agency enters into an agreement
10 with the department, the agency shall retain funds collected according to the
11 provisions of the agreement.

12 (d) This section shall not affect any agreement between the department and an
13 agency entered into under KRS 131.130(11) that is in effect on July 13, 2004,
14 that provides for the collection of liquidated debts by the department on behalf
15 of the agency.

16 (e) This section shall not affect the collection of delinquent taxes by sheriffs or
17 county attorneys under KRS 91A.070 or 134.504.

18 (f) This section shall not affect the collection of performance or reclamation
19 bonds.

20 (8) Upon receipt of a referred liquidated debt and after its determination that the debt is
21 feasible and cost-effective to collect, the department shall pursue collection of the
22 referred debt in accordance with KRS 131.030.

23 (9) By administrative regulation promulgated under KRS Chapter 13A, the department
24 shall prescribe the electronic format and form of, and the information required in, a
25 referral.

26 (10) (a) The department shall report annually by October 1 to the Interim Joint
27 Committee on Appropriations and Revenue on the collection of debts,

1 including debts due to improper payments, referred by agencies and the Court
2 of Justice. The report shall include the total amount by agency and fund type
3 of liquidated debt that has been referred to the department; the amount of each
4 referring agency's liquidated debt, by fund type, that has been collected by the
5 department; and the total amount of each referring agency's liquidated debt, by
6 fund type, that the department determined to be cost-ineffective to collect,
7 including the reasons for the determinations.

8 (b) Each cabinet shall report annually by October 1 to the Interim Joint
9 Committee on Appropriations and Revenue on:

- 10 1. The amount of previous fiscal year unliquidated debt by agency,
11 including debts due to improper payments, fund type, category, and age,
12 the latter to be categorized as less than one (1) year, less than five (5)
13 years, less than ten (10) years, and over ten (10) years; and
- 14 2. The amount, by agency, of liquidated debt, including debts due to
15 improper payments, not referred to the department; a summary, by
16 criteria listed in subsection (6)(a) of this section, of reasons the
17 department provided for not requesting referral of those liquidated debts;
18 and a summary of the actions each agency is taking to collect those
19 liquidated debts.

20 (c) Beginning on October 1, 2005, the Court of Justice shall report annually by
21 October 1 of each year to the Interim Joint Committee on Appropriations and
22 Revenue the amount of previous fiscal year unliquidated debt by county and
23 whether in the Circuit Court or District Court; and fund type and age, the
24 latter categorized as less than one (1) year, less than five (5) years, less than
25 ten (10) years, and over ten (10) years. The first year for which the Court of
26 Justice shall be required to report is the fiscal year beginning on July 1, 2004
27 and ending on June 30, 2005. The Court of Justice shall not be required to

1 report unliquidated debts in existence prior to July 1, 2004.

2 (d) The Finance and Administration Cabinet shall report annually by October 1 to
3 the Interim Joint Committee on Appropriations and Revenue on the amount of
4 the General Government Cabinet's unliquidated debt by agency, fund type,
5 and age, the latter categorized as less than one (1) year, less than five (5)
6 years, less than ten (10) years, and over ten (10) years.

7 (11) At the time of submission of a liquidated debt to the department for review, the
8 referring agency, the Court of Justice, or, where feasible, the local government shall
9 provide information about the debt to the State Treasurer for the Treasurer's action
10 under KRS 44.030(1).

11 ➔Section 9. KRS 189.990 is amended to read as follows:

12 (1) Any person who violates any of the provisions of KRS 189.020 to 189.040,
13 subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to
14 (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to
15 (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS
16 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to
17 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590,
18 except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of
19 KRS 189.456, and 189.960 shall be fined not less than twenty dollars (\$20) nor
20 more than one hundred dollars (\$100) for each offense. Any person who violates
21 subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars (\$20)
22 nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not
23 more than one (1) year, or both, unless the accident involved death or serious
24 physical injury and the person knew or should have known of the death or serious
25 physical injury, in which case the person shall be guilty of a Class D felony. Any
26 person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined
27 not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court

1 costs nor fees shall be taxed against any person violating paragraph (c) of
2 subsection (5) of KRS 189.390.

3 (2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221,
4 189.222, 189.226, 189.230, or 189.270 shall be fined two cents (\$0.02) per
5 pound for each pound of excess load when the excess is five thousand (5,000)
6 pounds or less. When the excess exceeds five thousand (5,000) pounds the
7 fine shall be two cents (\$0.02) per pound for each pound of excess load, but
8 the fine levied shall not be less than one hundred dollars (\$100) and shall not
9 be more than five hundred dollars (\$500).

10 (b) Any person who violates the provisions of KRS 189.271 and is operating on a
11 route designated on the permit shall be fined one hundred dollars (\$100);
12 otherwise, the penalties in paragraph (a) of this subsection shall apply.

13 (c) Any person who violates any provision of subsection (2) or (3) of KRS
14 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270,
15 189.280, or the dimension provisions of KRS 189.212, for which another
16 penalty is not specifically provided shall be fined not less than ten dollars
17 (\$10) nor more than five hundred dollars (\$500).

18 (d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to
19 prejudice or affect the authority of the Department of Vehicle Regulation to
20 suspend or revoke certificates of common carriers, permits of contract
21 carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221
22 to 189.228 or any other act applicable to motor vehicles, as provided by law.

23 (3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not
24 more than fifteen dollars (\$15).

25 (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not
26 less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).

27 (4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not

- 1 less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- 2 (b) Any peace officer who fails, when properly informed, to enforce KRS 189.210
3 shall be fined not less than twenty-five dollars (\$25) nor more than one
4 hundred dollars (\$100).
- 5 (c) All fines collected under this subsection, after payment of commissions to
6 officers entitled thereto, shall go to the county road fund if the offense is
7 committed in the county, or to the city street fund if committed in the city.
- 8 (5) Any person who violates KRS 189.370 shall for the first offense be fined not less
9 than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or
10 imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For
11 each subsequent offense occurring within three (3) years, the person shall be fined
12 not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500)
13 or imprisoned not less than sixty (60) days nor more than six (6) months, or both.
14 The minimum fine for this violation shall not be subject to suspension. A minimum
15 of six (6) points shall be assessed against the driving record of any person
16 convicted.
- 17 (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars
18 (\$15) in excess of the cost of the repair of the road.
- 19 (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than
20 twenty dollars (\$20) nor more than fifty dollars (\$50).
- 21 (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not
22 less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- 23 (9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-
24 five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned
25 not less than thirty (30) days nor more than twelve (12) months, or both.
- 26 (b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-
27 five dollars (\$35) nor more than one hundred dollars (\$100).

- 1 (10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a
2 Class B misdemeanor.
- 3 (11) Any person who violates subsection (3) of KRS 189.560 shall be fined not less than
4 thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.
- 5 (12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of
6 this section shall, in the case of a public highway, be paid into the county road fund,
7 and, in the case of a privately owned road or bridge, be paid to the owner. These
8 fines shall not bar an action for damages for breach of contract.
- 9 (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not
10 less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each
11 offense.
- 12 (14) Any person who violates any provision of KRS 189.575 shall be fined not less than
13 twenty dollars (\$20) nor more than twenty-five dollars (\$25).
- 14 (15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than
15 twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- 16 (16) Any person who violates restrictions or regulations established by the secretary of
17 transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense,
18 be fined one hundred dollars (\$100) and, upon subsequent convictions, be fined not
19 less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or
20 imprisoned for thirty (30) days, or both.
- 21 (17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty
22 of a Class B misdemeanor.
- 23 (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in
24 case of violation by any person in whose name the vehicle used in the
25 transportation of inflammable liquids or explosives is licensed, the person
26 shall be fined not less than one hundred dollars (\$100) nor more than five
27 hundred dollars (\$500). Each violation shall constitute a separate offense.

- 1 (18) Any person who abandons a vehicle upon the right-of-way of a state highway for
2 three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor
3 more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days
4 nor more than thirty (30) days.
- 5 (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor,
6 unless the offense is being committed by a defendant fleeing the commission of a
7 felony offense which the defendant was also charged with violating and was
8 subsequently convicted of that felony, in which case it is a Class A misdemeanor.
- 9 (20) Any law enforcement agency which fails or refuses to forward the reports required
10 by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.
- 11 (21) A person who operates a bicycle in violation of the administrative regulations
12 promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars (\$10)
13 nor more than one hundred dollars (\$100).
- 14 (22) Any person who violates KRS 189.860 shall be fined not more than five hundred
15 dollars (\$500) or imprisoned for not more than six (6) months, or both.
- 16 (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five
17 dollars (\$25) nor more than three hundred dollars (\$300).
- 18 (24) Any person who violates the provisions of KRS 189.125(3)(a) shall be fined fifty
19 dollars (\$50). This fine shall be subject to prepayment. A fine imposed under this
20 subsection shall not be subject to court costs pursuant to KRS 24A.175, additional
21 court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765,
22 or any other additional fees or costs.
- 23 (25) Any person who violates the provisions of KRS 189.125(3)(b) shall not be issued a
24 uniform citation, but shall instead receive a courtesy warning up until July 1, 2009.
25 For a violation on or after July 1, 2009, the person shall be fined thirty dollars (\$30).
26 This fine shall be subject to prepayment. A fine imposed under this subsection shall
27 not be subject to court costs pursuant to KRS 24A.175, additional court costs

1 pursuant to KRS 24A.176, a fee imposed pursuant to KRS 24A.1765, or any other
2 additional fees or costs. A person who has not been previously charged with a
3 violation of KRS 189.125(3)(b) may elect to acquire a booster seat meeting the
4 requirements of KRS 189.125. Upon presentation of sufficient proof of the
5 acquisition, the charge shall be dismissed and no fees or costs shall be imposed.

6 (26) Any person who violates the provisions of KRS 189.125(6) shall be fined an
7 amount not to exceed twenty-five dollars (\$25). This fine shall be subject to
8 prepayment. A fine imposed under this subsection shall not be subject to court costs
9 pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee
10 imposed pursuant to KRS 24A.1765, or any other additional fees or costs.

11 (27) Fines levied pursuant to this chapter shall be assessed in the manner required by
12 KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall
13 be governed by Section 4 of this Act and KRS 534.060.

14 (28) A licensed driver under the age of eighteen (18) charged with a moving violation
15 pursuant to this chapter as the driver of a motor vehicle may be referred, prior to
16 trial, by the court to a diversionary program. The diversionary program under this
17 subsection shall consist of one (1) or both of the following:

18 (a) Execution of a diversion agreement which prohibits the driver from operating
19 a vehicle for a period not to exceed forty-five (45) days and which allows the
20 court to retain the driver's operator's license during this period; and

21 (b) Attendance at a driver improvement clinic established pursuant to KRS
22 186.574. If the person completes the terms of this diversionary program
23 satisfactorily the violation shall be dismissed.

24 (29) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall
25 be fined two hundred fifty dollars (\$250). The fines and costs for a violation of
26 subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in
27 accordance with KRS 24A.180. Once deposited into the State Treasury, ninety

1 percent (90%) of the fine collected under this subsection shall immediately be
2 forwarded to the personal care assistance program under KRS 205.900 to 205.920.
3 Ten percent (10%) of the fine collected under this subsection shall annually be
4 returned to the county where the violation occurred and distributed equally to all
5 law enforcement agencies within the county.

- 6 (30) (a) Prior to January 1, 2011, any person who violates KRS 189.292 or 189.294
7 shall not be issued a uniform citation, but shall instead receive a courtesy
8 warning.
- 9 (b) On or after January 1, 2011, any person who violates KRS 189.292 or 189.294
10 shall be fined twenty-five dollars (\$25) for the first offense and fifty dollars
11 (\$50) for each subsequent offense.

12 ➔Section 10. KRS 189A.050 is amended to read as follows:

- 13 (1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), (d), or (e) shall
14 be sentenced to pay a service fee of three hundred seventy-five dollars (\$375),
15 which shall be in addition to all other penalties authorized by law.
- 16 (2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS
17 534.020~~[relating to the method of imposition]~~ and KRS 534.060~~[as to remedies for~~
18 ~~nonpayment of the fee]~~.
- 19 (3) The first fifty dollars (\$50) of each service fee imposed by this section shall be paid
20 into the general fund, and the remainder of the revenue collected from the service
21 fee imposed by this section shall be utilized as follows:
- 22 (a) Twelve percent (12%) of the amount collected shall be transferred to the
23 Department of Kentucky State Police forensic laboratory for the acquisition,
24 maintenance, testing, and calibration of alcohol concentration testing
25 instruments and the training of laboratory personnel to perform these tasks;
- 26 (b) Twenty percent (20%) of the service fee collected pursuant to this section
27 shall be allocated to the Department for Public Advocacy;

- 1 (c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for
2 training of prosecutors for the prosecution of persons charged with violations
3 of this chapter and for obtaining expert witnesses in cases involving the
4 prosecution of persons charged with violations of this chapter or any other
5 offense in which driving under the influence is a factor in the commission of
6 the offense charged;
- 7 (d) Sixteen percent (16%) of the amount collected shall be transferred as follows:
- 8 1. Fifty percent (50%) shall be credited to the traumatic brain injury trust
9 fund established under KRS 211.476; and
- 10 2. Fifty percent (50%) shall be credited to the Cabinet for Health and
11 Family Services, Department for Behavioral Health, Developmental and
12 Intellectual Disabilities, for the purposes of providing direct services to
13 individuals with brain injuries that may include long-term supportive
14 services and training and consultation to professionals working with
15 individuals with brain injuries. As funding becomes available under this
16 subparagraph, the cabinet may promulgate administrative regulations
17 pursuant to KRS Chapter 13A to implement the services permitted by
18 this subparagraph;
- 19 (e) Any amount specified by a specific statute shall be transferred as provided in
20 that statute;
- 21 (f) Forty-six percent (46%) of the amount collected shall be transferred to be
22 utilized to fund enforcement of this chapter and for the support of jails,
23 recordkeeping, treatment, and educational programs authorized by this chapter
24 and by the Department for Public Advocacy; and
- 25 (g) The remainder of the amount collected shall be transferred to the general fund.
- 26 (4) The amounts specified in subsection (3)(a), (b), (c), and (d) of this section shall be
27 placed in trust and agency accounts that shall not lapse.

1 ➔Section 11. KRS 189A.130 is amended to read as follows:

2 Fines levied pursuant to this chapter shall be assessed in the manner required by KRS
3 534.020 (but in amounts consistent with this chapter) and the response to nonpayment of
4 fines shall be governed by Section 4 of this Act and KRS 534.060.

5 ➔Section 12. KRS 439.250 is amended to read as follows:

6 As used in KRS 439.250 to 439.560, unless the context requires otherwise:

- 7 (1) "Secretary" means the secretary of the Justice and Public Safety Cabinet;
- 8 (2) "Commissioner" means the commissioner of the Department of Corrections;
- 9 (3) "Department" means the Department of Corrections;
- 10 (4) "Deputy commissioner" means the deputy commissioner of the Office of Adult
11 Institutions or the deputy commissioner of the Office of Community Services and
12 Facilities of the Department of Corrections;
- 13 (5) "Board" means the Parole Board created by KRS 439.320;
- 14 (6) "Community supervision" means:
- 15 (a) The placement of a defendant under supervision with conditions imposed by a
16 court for a specified period during which:
- 17 1. Criminal proceedings are deferred without an adjudication of guilt; or
18 2. A sentence of imprisonment or confinement, imprisonment and fine, or
19 confinement and fine, is probated and the imposition of sentence is
20 suspended in whole or in part; or
- 21 (b) The placement of an individual under supervision after release from prison or
22 jail, with conditions imposed by the board for a specified period;
- 23 (7) "Parole compliance credit" means a credit on a paroled individual's sentence for
24 program credit, work-for-time credit, educational accomplishment, or meritorious
25 service and shall be calculated pursuant to the applicable provisions in KRS
26 197.045 and 197.047;
- 27 (8) "Supervised compliance credit" means a credit on a supervised individual's

1 sentence for compliance with supervision that shall be calculated pursuant to
 2 Section 13 of this Act;

3 (9) "Positive reinforcement" means any of a wide range of rewards and incentives,
 4 including but not limited to awarding certificates of achievement, reducing
 5 reporting requirements, deferring a monthly supervision fee payment, removing
 6 supervision conditions such as home detention or curfew, or asking the supervised
 7 individual to be a mentor to others;

8 ~~(10)~~~~(9)~~ "Probation and parole district supervisor" means the highest ranking field
 9 probation or parole administrator in each district; and

10 ~~(11)~~~~(10)~~ "Supervised individual" means an individual placed on probation by a court or
 11 serving a period of parole or post-release supervision from prison or jail.

12 ➔Section 13. KRS 439.345 is amended to read as follows:

13 (1) ~~An~~~~A supervised~~ individual on parole shall receive parole compliance credits to be
 14 applied toward the individual's sentence, if the paroled individual does all of the
 15 following:

- 16 (a) Fulfills the terms of his or her case plan;
 17 (b) Has no new arrests; and
 18 (c) Makes scheduled monthly payments for restitution, if any.

19 (2) (a) After one (1) full calendar month of being supervised, a supervised
 20 individual eligible under this subsection on parole shall receive thirty (30)
 21 days of supervised compliance credit for every full calendar month he or
 22 she is substantially compliant with supervision. After a supervised
 23 individual has served at least one (1) year on supervision, the accrued
 24 supervised compliance credits shall be applied towards the individual's
 25 sentence.

26 (b) As used in this subsection:

27 1. "Eligible" means an offender being supervised for a Class D felony

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that:

- a. Does not qualify the offender as a violent offender as defined in KRS 439.3401 or a sexual offender as defined in KRS 17.550;
- and
- b. Did not result from a conviction of KRS 508.025 where the victim was a peace officer; and

2. "Substantially compliant" means:

- a. Compliance with the terms of his or her case plan;
- b. Has no new arrests; and
- c. Makes scheduled monthly payments for restitution, if any.

(3) (a) After one (1) full calendar month of being supervised, a supervised individual eligible under this subsection on parole shall receive thirty (30) days of supervised compliance credit for every full calendar month he or she is substantially compliant with supervision. After a supervised individual has served at least two (2) years on supervision, the accrued supervised compliance credits shall be applied towards the individual's sentence.

(b) As used in this subsection:

1. "Eligible" means an offender who:

- a. Is not a persistent felony offender; and
- b. Is being supervised for a Class C felony that:
 - i. Does not qualify the offender as a violent offender as defined in KRS 439.3401 or a sexual offender as defined in KRS 17.550; and
 - ii. Did not result from a conviction of KRS 218A.1401, 218A.1410, 218A.1411, 218A.1412, 218A.1413, 218A.1414, 218A.1421, 218A.1423, 218A.1430, 218A.1438, 218A.1439,

1 or 218A.286; and

2 2. "Substantially compliant" means:

3 a. Compliance with the terms of his or her case plan;

4 b. Has no new arrests; and

5 c. Makes scheduled monthly payments for restitution, if any.

6 **(4)** The department shall promulgate administrative regulations for the awarding of
7 parole~~[earned]~~ compliance credits and supervised compliance credits pursuant to
8 this section~~[to a supervised individual who is on parole].~~

9 ➔Section 14. KRS 439.3108 is amended to read as follows:

10 (1) Notwithstanding any administrative regulation or law to the contrary, including
11 KRS 439.340(3)(b), the department or board may:

12 (a) Modify the conditions of community supervision for the limited purpose of
13 imposing graduated sanctions;~~[and]~~

14 (b) Place a supervised individual who is on probation who violates the conditions
15 of community supervision in a state or local correctional or detention facility
16 or residential center for a period of not more than ten (10) days consecutively,
17 and not more than sixty (60)~~[thirty (30)]~~ days in any one (1) calendar year.

18 The department shall reimburse the local correctional or detention facility or
19 residential center for the costs of incarcerating a person confined under this
20 paragraph at the rate specified in KRS 532.100;

21 (c) Place a supervised individual serving a period of parole or post-release
22 supervision from prison or jail who violates the conditions of community
23 supervision in a state or local correctional or detention facility or residential
24 center for a period of not more than thirty (30) days consecutively, and not
25 more than sixty (60) days in any one (1) calendar year. The department
26 shall reimburse the local correctional or detention facility or residential
27 center for the costs of incarcerating a person confined under this paragraph

1 at the rate specified in Section 85 of this Act; and
2 (d) Notwithstanding paragraphs (b) and (c) of this subsection, place any
3 supervised individual who violates the conditions of community supervision
4 in a state or local correctional or detention facility or residential center for
5 the period of time a supervised individual awaits admission to a residential
6 alcohol or substance use treatment program. The department shall
7 reimburse the local correctional or detention facility or residential center
8 for the costs of incarcerating a supervised individual serving a period of
9 parole or post-release supervision confined under this paragraph at the rate
10 specified in Section 85 of this Act.

11 (2) A probation and parole officer intending to modify the conditions of community
12 supervision by imposing a graduated sanction shall issue to the supervised
13 individual a notice of the intended sanction. The notice shall inform the supervised
14 individual of the technical violation or violations alleged, the date or dates of the
15 violation or violations, and the graduated sanction to be imposed.

16 (3) The imposition of a graduated sanction or sanctions by a probation and parole
17 officer shall comport with the system of graduated sanctions adopted by the
18 department under KRS 439.3107. Upon receipt of the notice, the supervised
19 individual shall immediately accept or object to the sanction or sanctions proposed
20 by the officer. The failure of the supervised individual to comply with a sanction
21 shall constitute a violation of community supervision.

22 (4) If the supervised individual objects to the imposition of the sanction or sanctions,
23 then:

24 (a) If the supervised individual is serving a period of parole or post-release
25 supervision from prison or jail, then the administrative process promulgated
26 under KRS 439.3107(3) shall apply; or

27 (b) If the supervised individual is on probation, then the provisions of KRS

1 533.050 shall apply.

2 (5) If the graduated sanction involves confinement in a correctional or detention
3 facility, confinement shall be approved by the probation and parole district
4 supervisor, but the supervised individual may be taken into custody for up to four
5 (4) hours while such approval is obtained. If the supervised individual is employed,
6 the probation and parole officer shall, to the extent feasible, impose this sanction on
7 weekend days or other days and times when the supervised individual is not
8 working.

9 (6) A sanction that confines a supervised individual in a correctional or detention
10 facility for a period of more than ten (10) consecutive days, or extends the term of
11 community supervision, shall not be imposed as a graduated sanction, except
12 pursuant to an order of the court or the board.

13 (7) Upon successful completion of a graduated sanction or sanctions, a court may not
14 revoke the term of community supervision or impose additional sanctions for the
15 same violation.

16 (8) If a probation and parole officer modifies the conditions of community supervision
17 by imposing a graduated sanction, the officer shall:

18 (a) Deliver a copy of the modified conditions to the supervised individual;

19 (b) File a copy of the modified conditions with the sentencing court or releasing
20 authority; and

21 (c) Note the date of delivery of the copy in the supervised individual's file or case
22 management system.

23 ➔Section 15. KRS 439.3406 is amended to read as follows:

24 (1) The board shall order mandatory reentry supervision six (6) months prior to the
25 projected completion date of an inmate's sentence for an inmate who has not been
26 granted discretionary parole.

27 (2) The provisions of subsection (1) of this section shall not apply to an inmate who:

- 1 (a) Is not eligible for parole by statute;
- 2 (b) Has been convicted of a capital offense or a Class A felony;
- 3 (c) Has a maximum or close security classification as defined by administrative
4 regulations promulgated by the department;
- 5 (d) Has been sentenced to two (2) years or less of incarceration;
- 6 (e) Is subject to the provisions of KRS 532.043;~~or~~
- 7 (f) Has six (6) months or less to be served after his or her sentencing by a court or
8 recommitment to prison for a violation of probation, shock probation, parole,
9 or conditional discharge;
- 10 **(g) If recommitted to prison for a violation of probation, shock probation,**
11 **parole, or conditional discharge, has not served at least six (6) months since**
12 **being recommitted; or**
- 13 **(h) Has twice been released on mandatory reentry supervision.**
- 14 (3) An inmate granted mandatory reentry supervision pursuant to this section may be
15 returned by the board to prison for violation of the conditions of supervision and
16 shall not again be eligible for mandatory reentry supervision during the same period
17 of incarceration.
- 18 (4) An inmate released to mandatory reentry supervision shall be considered to be
19 released on parole.
- 20 (5) Mandatory reentry supervision is not a commutation of sentence or any other form
21 of clemency.
- 22 (6) No hearing shall be required for the board to order an inmate to mandatory reentry
23 supervision pursuant to subsection (1) of this section. Terms of supervision for
24 inmates released on mandatory reentry supervision shall be established as follows:
- 25 (a) The board shall adopt administrative regulations establishing general
26 conditions applicable to each inmate ordered to mandatory reentry supervision
27 pursuant to subsection (1) of this section. If an inmate is ordered to mandatory

- 1 reentry supervision, the board's order shall set forth the general conditions and
2 shall require the inmate to comply with the general conditions and any
3 requirements imposed by the department in accordance with this section;
- 4 (b) Upon intake of an inmate ordered to mandatory reentry supervision by the
5 board, the department shall use the results of the risk and needs assessment
6 administered pursuant to KRS 439.3104(1) to establish appropriate terms and
7 conditions of supervision, taking into consideration the level of risk to public
8 safety, criminal risk factors, and the need for treatment and other
9 interventions. The terms and conditions imposed by the department under this
10 paragraph shall not conflict with the general conditions adopted by the board
11 pursuant to paragraph (a) of this subsection; and
- 12 (c) The powers and duties assigned to the commissioner in relation to probation
13 or parole under KRS 439.470 shall be assigned to the commissioner in
14 relation to mandatory reentry supervision.
- 15 (7) Subject to subsection (3) of this section, the period of mandatory reentry
16 supervision shall conclude upon completion of the individual's minimum expiration
17 of sentence.
- 18 (8) If the board issues a warrant for the arrest of an inmate for absconding from
19 supervision during the mandatory reentry supervision period, and the inmate is
20 subsequently returned to prison as a violator of conditions of supervision for
21 absconding, the inmate shall not receive credit toward the remainder of his or her
22 sentence for the time spent absconding.
- 23 (9) The department shall report the results of the mandatory reentry supervision
24 program to the Interim Joint Committee on Judiciary by February 1, 2015.
- 25 ➔Section 16. KRS 17.510 is amended to read as follows:
- 26 (1) The cabinet shall develop and implement a registration system for registrants which
27 includes creating a new computerized information file to be accessed through the

1 Law Information Network of Kentucky.

2 (2) A registrant shall, on or before the date of his or her release by the court, the parole
3 board, the cabinet, or any detention facility, register with the appropriate local
4 probation and parole office in the county in which he or she intends to reside. The
5 person in charge of the release shall facilitate the registration process.

6 (3) Any person required to register pursuant to subsection (2) of this section shall be
7 informed of the duty to register by the court at the time of sentencing if the court
8 grants probation or conditional discharge or does not impose a penalty of
9 incarceration, or if incarcerated, by the official in charge of the place of confinement
10 upon release. The court and the official shall require the person to read and sign any
11 form that may be required by the cabinet, stating that the duty of the person to
12 register has been explained to the person. The court and the official in charge of the
13 place of confinement shall require the releasee to complete the acknowledgment
14 form and the court or the official shall retain the original completed form. The
15 official shall then send the form to the Information Services Center, Department of
16 Kentucky State Police, Frankfort, Kentucky 40601.

17 (4) The court or the official shall order the person to register with the appropriate local
18 probation and parole office which shall obtain the person's fingerprints, DNA
19 sample, and photograph. Thereafter, the registrant shall return to the appropriate
20 local probation and parole office not less than one (1) time every two (2) years in
21 order for a new photograph to be obtained, and the registrant shall pay the cost of
22 updating the photo for registration purposes. Any registrant who has not provided a
23 DNA sample as of July 1, 2009, shall provide a DNA sample to the appropriate
24 local probation and parole office when the registrant appears for a new photograph
25 to be obtained. Failure to comply with this requirement shall be punished as set
26 forth in subsection (11) of this section.

27 (5) (a) The appropriate probation and parole office shall send the registration form

1 containing the registrant information, fingerprint card, and photograph, and
2 any special conditions imposed by the court or the Parole Board, to the
3 Information Services Center, Department of Kentucky State Police, Frankfort,
4 Kentucky 40601. The appropriate probation and parole office shall send the
5 DNA sample to the Department of Kentucky State Police forensic laboratory
6 in accordance with administrative regulations promulgated by the cabinet.

7 (b) The Information Services Center, upon request by a state or local law
8 enforcement agency, shall make available to that agency registrant
9 information, including a person's fingerprints and photograph, where
10 available, as well as any special conditions imposed by the court or the Parole
11 Board.

12 (c) Any employee of the Justice and Public Safety Cabinet who disseminates, or
13 does not disseminate, registrant information in good faith compliance with the
14 requirements of this subsection shall be immune from criminal and civil
15 liability for the dissemination or lack thereof.

16 (6) (a) *Except as provided in paragraph (b) of this subsection,* any person who has
17 been convicted in a court of any state or territory, a court of the United States,
18 or a similar conviction from a court of competent jurisdiction in any other
19 country, or a court martial of the United States Armed Forces of a sex crime
20 or criminal offense against a victim who is a minor and who has been notified
21 of the duty to register by that state, territory, or court, or who has been
22 committed as a sexually violent predator under the laws of another state, laws
23 of a territory, or federal laws, or has a similar conviction from a court of
24 competent jurisdiction in any other country, shall comply with the registration
25 requirement of this section, including the requirements of subsection (4) of
26 this section, and shall register with the appropriate local probation and parole
27 office in the county of residence within five (5) working days of relocation.

1 No additional notice of the duty to register shall be required of any official
2 charged with a duty of enforcing the laws of this Commonwealth.

3 **(b) No person shall be required to register under this subsection for a juvenile**
4 **adjudication if such an adjudication in this Commonwealth would not**
5 **create a duty to register. This paragraph shall be retroactive.**

6 (7) **(a) Except as provided in paragraph (b) of this subsection,** if a person is
7 required to register under federal law or the laws of another state or territory,
8 or if the person has been convicted of an offense under the laws of another
9 state or territory that would require registration if committed in this
10 Commonwealth, that person upon changing residence from the other state or
11 territory of the United States to the Commonwealth or upon entering the
12 Commonwealth for employment, to carry on a vocation, or as a student shall
13 comply with the registration requirement of this section, including the
14 requirements of subsection (4) of this section, and shall register within five (5)
15 working days with the appropriate local probation and parole office in the
16 county of residence, employment, vocation, or schooling. A person required to
17 register under federal law or the laws of another state or territory shall be
18 presumed to know of the duty to register in the Commonwealth. As used in
19 this subsection, "employment" or "carry on a vocation" includes employment
20 that is full-time or part-time for a period exceeding fourteen (14) days or for
21 an aggregate period of time exceeding thirty (30) days during any calendar
22 year, whether financially compensated, volunteered, or for the purpose of
23 government or educational benefit. As used in this subsection, "student"
24 means a person who is enrolled on a full-time or part-time basis, in any public
25 or private educational institution, including any secondary school, trade or
26 professional institution, or institution of higher education.

27 **(b) No person shall be required to register under this subsection for a juvenile**

1 *adjudication if such an adjudication in this Commonwealth would not*
2 *create a duty to register. This paragraph shall be retroactive.*

- 3 (8) The registration form shall be a written statement signed by the person which shall
4 include registrant information, including an up-to-date photograph of the registrant
5 for public dissemination.
- 6 (9) For purposes of KRS 17.500 to 17.580 and 17.991, a post office box number shall
7 not be considered an address.
- 8 (10) (a) If the residence address of any registrant changes, but the registrant remains in
9 the same county, the person shall register, on or before the date of the change
10 of address, with the appropriate local probation and parole office in the county
11 in which he or she resides.
- 12 (b) 1. If the registrant changes his or her residence to a new county, the person
13 shall notify his or her current local probation and parole office of the
14 new residence address on or before the date of the change of address.
- 15 2. The registrant shall also register with the appropriate local probation and
16 parole office in the county of his or her new residence no later than five
17 (5) working days after the date of the change of address.
- 18 (c) If the electronic mail address or any instant messaging, chat, or other Internet
19 communication name identities of any registrant changes, or if the registrant
20 creates or uses any new Internet communication name identities, the registrant
21 shall register the change or new identity, on or before the date of the change or
22 use or creation of the new identity, with the appropriate local probation and
23 parole office in the county in which he or she resides.
- 24 (d) 1. As soon as a probation and parole office learns of the person's new
25 address under paragraph (b)1. of this subsection, that probation and
26 parole office shall notify the appropriate local probation and parole
27 office in the county of the new address of the effective date of the new

1 address.

2 2. As soon as a probation and parole office learns of the person's new
3 address under paragraph (b)2. of this subsection or learns of the
4 registrant's new or changed electronic mail address or instant messaging,
5 chat, or other Internet communication name identities under paragraph
6 (c) of this subsection, that office shall forward this information as set
7 forth under subsection (5) of this section.

8 (11) Any person required to register under this section who knowingly violates any of
9 the provisions of this section or prior law is guilty of a Class D felony for the first
10 offense and a Class C felony for each subsequent offense.

11 (12) Any person required to register under this section or prior law who knowingly
12 provides false, misleading, or incomplete information is guilty of a Class D felony
13 for the first offense and a Class C felony for each subsequent offense.

14 (13) (a) The cabinet shall verify the addresses and the electronic mail address and any
15 instant messaging, chat, or other Internet communication name identities of
16 individuals required to register under this section. Verification shall occur at
17 least once every ninety (90) days for a person required to register under KRS
18 17.520(2) and at least once every calendar year for a person required to
19 register under KRS 17.520(3). If the cabinet determines that a person has
20 moved or has created or changed any electronic mail address or any instant
21 messaging, chat, or other Internet communication name identities used by the
22 person without providing his or her new address, electronic mail address, or
23 instant messaging, chat, or other Internet communication name identity to the
24 appropriate local probation and parole office or offices as required under
25 subsection (10)(a), (b), and (c) of this section, the cabinet shall notify the
26 appropriate local probation and parole office of the new address or electronic
27 mail address or any instant messaging, chat, or other Internet communication

1 name identities used by the person. The office shall then forward this
 2 information as set forth under subsection (5) of this section. The cabinet shall
 3 also notify the appropriate court, Parole Board, and appropriate
 4 Commonwealth's attorney, sheriff's office, probation and parole office,
 5 corrections agency, and law enforcement agency responsible for the
 6 investigation of the report of noncompliance.

7 (b) An agency that receives notice of the noncompliance from the cabinet under
 8 paragraph (a) of this subsection:

- 9 1. Shall consider revocation of the parole, probation, postincarceration
 10 supervision, or conditional discharge of any person released under its
 11 authority; and
- 12 2. Shall notify the appropriate county or Commonwealth's Attorney for
 13 prosecution.

14 ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO
 15 READ AS FOLLOWS:

16 **As used in Sections 17 to 24 of this Act:**

17 **(1) "Department" means the Department of Corrections;**

18 **(2) "Drug" means alcohol or a controlled substance as defined in KRS 218A.010;**

19 **(3) "Drug supervision session" means a meeting between the reentry team and the**
 20 **participant to discuss the participant's progress through the reentry drug**
 21 **supervision pilot program;**

22 **(4) "Participant" means an inmate or parolee selected to participate in the reentry**
 23 **drug supervision pilot program;**

24 **(5) "Reentry drug supervision pilot program" or "pilot program" means the**
 25 **program created under Section 18 of this Act;**

26 **(6) "Reentry team" means the team organized under Section 19 of this Act to**
 27 **administer and oversee the reentry drug supervision pilot program; and**

1 (7) "Substance use disorder" has the same meaning as in the current edition of the
2 American Psychiatric Association's Diagnostic and Statistical Manual of Mental
3 Disorders.

4 ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO
5 READ AS FOLLOWS:

6 (1) By March 2018, the department shall implement a reentry drug supervision pilot
7 program with the goal of restoring lives and reducing recidivism through
8 oversight and behavior modification.

9 (2) The reentry drug supervision pilot program shall last four (4) years and shall:

10 (a) Be administered and overseen by a reentry team organized under Section 19
11 of this Act;

12 (b) Be composed of inmates or parolees placed in the pilot program pursuant to
13 Section 20 of this Act;

14 (c) Consist of two (2) phases as outlined in Section 21 of this Act;

15 (d) Provide a continuum of substance use disorder treatments and
16 rehabilitative services;

17 (e) Monitor participants with frequent drug testing;

18 (f) Implement a coordinated strategy to govern the pilot program's responses to
19 participants' compliance;

20 (g) Require ongoing reentry team interaction with each participant; and

21 (h) Forge partnerships among public agencies and community-based
22 organizations.

23 (3) The department shall monitor and evaluate the reentry drug supervision pilot
24 program to determine:

25 (a) The number of participants who complete the pilot program;

26 (b) Of the participants who complete the pilot program, the number who later
27 have their parole revoked and for what offense or, if no longer on parole,

1 the number who commit new offenses and a description of those new
2 offenses;

3 (c) The number of participants terminated from the pilot program, the reason
4 for their termination, and how long they participated in the pilot program
5 before termination; and

6 (d) Any savings associated from placing participants in the pilot program
7 versus keeping those participants incarcerated.

8 (4) For a total of seven (7) years, the department shall provide an annual report to
9 the Legislative Research Commission and to the Interim Joint Committee on
10 Judiciary by January 1 of each year the reentry drug supervision pilot program is
11 in operation as well as the following three (3) years. The report shall include the
12 data detailed in subsection (3) of this section.

13 (5) The department may promulgate administrative regulations to implement
14 Sections 17 to 24 of this Act.

15 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO
16 READ AS FOLLOWS:

17 (1) The reentry team shall administer and oversee the reentry drug supervision pilot
18 program. The team shall consist of the following members:

19 (a) A department hearing officer shall lead the reentry team and ensure that
20 due process is followed. If reentry team members disagree on incentives or
21 sanctions, the hearing officer shall be the final decision maker;

22 (b) A parole officer who shall have regular parole officer duties, including drug
23 testing and maintaining records;

24 (c) A reentry liaison or facilitator from the Division of Probation and Parole;

25 (d) A social service clinician;

26 (e) A public defender or his or her designated representative who may or may
27 not be an attorney; and

1 (f) A designated representative from a community mental health center who
2 shall provide substance use disorder treatment to participants.

3 (2) The Administrative Office of the Courts shall train reentry team members on the
4 philosophy behind drug courts as well as their roles within the team.

5 (3) The reentry team may provide incentives, including but not limited to the
6 following:

7 (a) Promotion to the next phase as outlined in Section 21 of this Act;

8 (b) Certificates and tokens;

9 (c) Compliance credit or any other parole credit approved by the reentry team;

10 (d) Decreased supervision;

11 (e) Increased privileges and responsibilities;

12 (f) Praise from the hearing officer and reentry team;

13 (g) Extended curfews; and

14 (h) Other individual incentives approved by the reentry team.

15 (4) (a) Notwithstanding KRS 439.3108 or 439.340(3)(b) or any other statute to the
16 contrary, only the reentry team may impose sanctions on participants who
17 do not comply with the requirements and conditions established by the
18 reentry team. Notwithstanding KRS 439.3107 or 439.3108 or any other
19 statute to the contrary, sanctions include but are not limited to the
20 following:

21 1. Admonishments by the hearing officer;

22 2. Graduated sanctions similar to those adopted by the department
23 pursuant to KRS 439.3107;

24 3. Community service;

25 4. Phase demotion;

26 5. Increased pilot program requirements;

27 6. Electronic monitoring;

- 1 7. Home incarceration;
- 2 8. Imprisonment in a state or local correctional or detention facility or
- 3 residential center for no more than sixty (60) days in any one (1)
- 4 calendar year; and
- 5 9. Termination from the pilot program.
- 6 (b) When considering appropriate sanctions, the reentry team shall consider
- 7 alternatives to incarceration.
- 8 (c) Notwithstanding paragraph (a) of this subsection, a parole officer may
- 9 arrest a participant without first consulting the reentry team if the parole
- 10 officer believes the participant poses an imminent threat to himself or
- 11 herself or to others. The parole officer shall immediately notify the reentry
- 12 team of the arrest. Upon receiving notification of the arrest, the reentry
- 13 team shall then determine whether to impose additional sanctions.
- 14 (5) Reentry team proceedings shall be confidential and shall be closed unless
- 15 otherwise authorized by the hearing officer. Each reentry team member shall sign
- 16 a confidentiality agreement and shall comply with state and federal
- 17 confidentiality laws regarding treatment information. Documents contained in a
- 18 participant's pilot program case file shall be confidential and only those
- 19 documents that do not violate these state and federal confidentiality laws shall be
- 20 released.
- 21 ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO
- 22 READ AS FOLLOWS:
- 23 (1) The department shall implement the reentry drug supervision pilot program
- 24 created under Section 18 of this Act for inmates or parolees placed in the pilot
- 25 program pursuant to this section.
- 26 (2) Inmates or parolees may be referred to the Parole Board as candidates for the
- 27 pilot program by either the department's Division of Substance Abuse

1 Programming as outlined in subsection (3) of this section or the department's
2 hearing officers as outlined in subsection (4) of this section.

3 (3) (a) After sentencing, the department's Division of Substance Abuse
4 Programming shall conduct a substance abuse assessment of the following
5 inmates:

6 1. Inmates whose offense for which he or she was sentenced:

7 a. Does not qualify him or her as a violent offender as defined in
8 KRS 439.3401 or a sexual offender as defined in KRS 17.550;
9 and

10 b. Did not result in death or serious physical injury of a victim;

11 2. Inmates:

12 a. Who have been convicted of, or entered an Alford plea or plea of
13 nolo contendere to, a Class C or D felony that is:

14 i. A drug offense; or

15 ii. An offense arising from a substance use disorder; or

16 b. Whose probation or parole was revoked due to a substance use
17 disorder or those with a history of substance use disorder; and

18 3. Inmates who have not previously participated in the reentry drug
19 supervision pilot program.

20 (b) After reviewing the substance abuse assessments required under paragraph
21 (a) of this subsection, the department's Division of Substance Abuse
22 Programming shall refer to the Parole Board those inmates determined by
23 the division to be candidates for the reentry drug supervision pilot program.

24 (4) During a preliminary parole revocation hearing, if a department hearing officer
25 suspects a parolee is suffering from a substance use disorder, the hearing officer
26 may order a one (1) month deferment to allow the department's Division of
27 Substance Abuse Programming to conduct a substance abuse assessment of the

1 parolee. After evaluating the assessment, the hearing officer may recommend to
2 the Parole Board that the parolee be placed into the pilot program instead of
3 being revoked.

4 (5) (a) Upon receiving a referral from the department's Division of Substance
5 Abuse Programming pursuant to subsection (3) of this section or from the
6 department's hearing officers pursuant to subsection (4) of this section, the
7 Parole Board shall notify the inmate's or parolee's victims, if any, and
8 provide them an opportunity to submit a written victim impact statement
9 and to testify. The Parole Board shall then evaluate the referred inmate or
10 parolee to determine whether to place him or her in the reentry drug
11 supervision pilot program.

12 (b) When evaluating whether to place a referred inmate or parolee in the
13 reentry drug supervision pilot program, the Parole Board shall consider the
14 following:

15 1. Current criminal charges, if any;

16 2. Criminal convictions;

17 3. Results of the substance abuse assessment conducted pursuant to
18 subsection (3) or (4) of this section;

19 4. Plan of recovery created by the department;

20 5. Information regarding the victims, if any;

21 6. Trial court's recommendation to participate in the pilot program, if
22 any;

23 7. An inmate's or parolee's willingness to participate; and

24 8. Other relevant information as identified by the department.

25 (6) After evaluating the referred inmate or parolee pursuant to subsection (5) of this
26 section, the Parole Board shall determine whether to place an inmate or parolee
27 into the reentry drug supervision pilot program.

1 (7) (a) 1. Notwithstanding KRS 218A.1412 or 439.340 or any other statute to
 2 the contrary, if the Parole Board decides to place an inmate in the
 3 reentry drug supervision pilot program, the inmate shall immediately
 4 be paroled into the pilot program. The only conditions of parole shall
 5 be to:

6 a. Have no contact with victims, if applicable;

7 b. Pay restitution, if applicable; and

8 c. Adhere to Sections 17 to 24 of this Act and to the reentry team's
 9 requirements and conditions.

10 2. Notwithstanding any statute to the contrary, if the Parole Board
 11 decides to place a parolee in the reentry drug supervision pilot
 12 program, the parolee shall immediately be entered into the pilot
 13 program. The only conditions of parole shall be to:

14 a. Adhere to any special conditions established by the Parole
 15 Board; and

16 b. Adhere to Sections 17 to 24 of this Act and to the reentry team's
 17 requirements and conditions.

18 (b) Participants shall remain on parole until sentence completion unless the
 19 reentry team determines to terminate or administratively discharge the
 20 participant from the pilot program. If terminated from the pilot program,
 21 the reentry team shall refer the participant to the Parole Board for
 22 revocation.

23 ➔SECTION 21. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO
 24 READ AS FOLLOWS:

25 (1) The reentry drug supervision pilot program shall consist of two (2) phases lasting
 26 a minimum of twelve (12) months or until sentence completion, whichever occurs
 27 first. Both phases shall occur after the participant is paroled.

- 1 (2) The first phase is an education phase. For the first phase, the participant shall at
2 a minimum:
- 3 (a) Provide at least three (3) random drug screens per week;
 - 4 (b) Attend as many group therapy sessions per week as determined necessary by
5 a community mental health center. The community mental health center
6 shall conduct the group therapy sessions;
 - 7 (c) Attend one (1) drug supervision session per week;
 - 8 (d) Obtain and maintain full-time employment, training, or education approved
9 by the reentry team;
 - 10 (e) Obtain and maintain housing approved by the reentry team;
 - 11 (f) Make arrangements for payment of court obligations and any probation
12 and parole fees required by the department;
 - 13 (g) Indicate an appropriate understanding of recovery principles;
 - 14 (h) Attend self-help programs, such as a twelve (12) step program; and
 - 15 (i) Remain drug-free for ninety (90) consecutive days in this phase before
16 consideration for promotion to the second phase.
- 17 (3) The second phase is the self-motivation phase. For the second phase, the
18 participant shall at a minimum:
- 19 (a) Provide at least two (2) random drug screens per week;
 - 20 (b) Attend as many group therapy sessions per week as determined necessary by
21 a community mental health center. The community mental health center
22 shall conduct the group therapy sessions;
 - 23 (c) Attend two (2) drug supervision sessions every two (2) weeks;
 - 24 (d) Maintain full-time employment, training, or education approved by the
25 reentry team;
 - 26 (e) Maintain housing approved by the reentry team;
 - 27 (f) Continue paying court obligations and any probation and parole fees

- 1 required by the department;
- 2 (g) Indicate an appropriate understanding of recovery lifestyle;
- 3 (h) Continue to attend self-help programs, such as a twelve (12) step program;
- 4 and
- 5 (i) Remain drug-free for ninety (90) consecutive days in this phase.
- 6 (4) Participants may be ordered during any phase to comply with additional
- 7 requirements, including but not limited to the following:
- 8 (a) Employment, school, or home visits by the pilot program staff;
- 9 (b) Domestic violence counseling with a certified domestic violence treatment
- 10 provider, or other types of counseling, as referred by the reentry team;
- 11 (c) Curfews as established by the reentry team; and
- 12 (d) Medical or mental health referrals and subsequent treatment
- 13 recommendations.
- 14 (5) After successful completion of the second phase, if a participant has not yet
- 15 completed his or her sentence, the participant shall move from the reentry drug
- 16 supervision pilot program to regular parole.
- 17 (6) If the reentry team terminates the participant from the pilot program, the
- 18 participant shall be referred to the Parole Board for revocation. If terminated, the
- 19 reentry team shall determine whether the participant may receive credit toward
- 20 the remainder of his or her sentence for the time spent in the pilot program.

21 ➔SECTION 22. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO

22 READ AS FOLLOWS:

23 If reentry drug supervision pilot program participation as outlined in Section 21 of this

24 Act is impracticable due to inpatient treatment or similar circumstances in which the

25 participant is being monitored by an authorized third party, the participant shall be

26 placed in suspended status. Upon release from the authorized third party, the

27 participant shall resume participation in the reentry drug supervision pilot program.

1 *During the time in which the participant is suspended, no credit shall be earned toward*
2 *the completion of the two (2) pilot program phases.*

3 ➔SECTION 23. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO
4 READ AS FOLLOWS:

5 *If a participant cannot complete the pilot program through no fault of his or her own,*
6 *he or she may be administratively discharged. If the reentry team determines that*
7 *administrative discharge is appropriate, the department shall determine whether to*
8 *move the participant to regular parole or to refer the participant to the Parole Board*
9 *for revocation. If administratively discharged, the participant shall receive credit*
10 *toward the remainder of his or her sentence for the time spent in the pilot program.*

11 ➔SECTION 24. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO
12 READ AS FOLLOWS:

13 *Participants may request voluntary termination from the pilot program. If the reentry*
14 *team determines the request is knowingly and voluntarily made, the participant shall*
15 *be referred to the Parole Board for revocation. If voluntarily terminated, the reentry*
16 *team shall determine whether the participant may receive credit toward the remainder*
17 *of his or her sentence for the time spent in the pilot program.*

18 ➔SECTION 25. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO
19 READ AS FOLLOWS:

20 *(1) A law enforcement agency may create a program to refer persons to treatment for*
21 *substance use who voluntarily seek assistance from the law enforcement agency.*

22 *(2) A person voluntarily seeking assistance through a program created pursuant to*
23 *this section:*

24 *(a) Shall not be placed under arrest;*

25 *(b) Shall not be prosecuted for the possession of any controlled substance,*
26 *paraphernalia, or other item surrendered to the law enforcement agency.*

27 *Items surrendered pursuant to this paragraph shall be recorded by the law*

- 1 *enforcement agency at the time of surrender and shall be destroyed;*
2 *(c) Shall be paired immediately with a volunteer mentor to assist his or her*
3 *recovery; and*
4 *(d) Shall be immediately referred to a community mental health center, medical*
5 *provider, or other entity for substance use treatment.*
6 *(3) A person is ineligible for placement through a program established pursuant to*
7 *this section if the person:*
8 *(a) Has an outstanding arrest warrant;*
9 *(b) Has been convicted of three (3) or more drug-related offenses; or*
10 *(c) Is under the age of eighteen (18) and does not have the consent of a parent*
11 *or guardian.*
12 *(4) Programs created pursuant to this section may be called an Angel Initiative*
13 *Program.*

14 ➔Section 26. KRS 202A.121 is amended to read as follows:

15 Upon the appearance of the person detained pursuant to KRS 202A.041 or upon the filing
16 of a petition pursuant to KRS 202A.051, the court shall appoint an attorney to represent
17 the respondent with such appointment and representation to continue unless the
18 respondent retains private counsel. The appointed attorney shall be forthwith notified by
19 the clerk of the allegations in the petition and the date and purpose of the preliminary
20 hearing. *Notwithstanding KRS 202A.091, an attorney appointed by the court or*
21 *retained by the respondent shall be given access to the court records relating to the*
22 *petition.*

23 ➔SECTION 27. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO
24 READ AS FOLLOWS:

- 25 *(1) The department may administer a Prison Industry Enhancement Certification*
26 *Program (PIECP) and may lease the labor of state prisoners within the*
27 *boundaries of the state's Department of Corrections facilities for the production*

1 of nonagricultural goods for sale to both public and private buyers, if the
2 department meets the conditions set out in this section. This section shall apply
3 only to the leasing of labor in accordance with a PIECP and not to programs
4 otherwise operated by Kentucky Correctional Industries.

5 (2) The department shall not lease the labor of a prisoner who does not consent in
6 writing to the leasing of that prisoner's labor.

7 (3) The department shall retain full responsibility for the care, custody, and control
8 of the prisoner and shall supply appropriate security and custody services without
9 cost to the person leasing the labor.

10 (4) The department shall ensure that the prisoner is paid wages at a rate not less
11 than that paid for work of a similar nature in the locality in which the work takes
12 place, as determined by the Labor Cabinet, and never less than the federal
13 minimum wage. The final decision on the appropriate wage, in keeping with
14 federal and state labor and wage laws, shall be made by the Kentucky State
15 Corrections Commission.

16 (5) The department shall not allow a prisoner whose labor has been leased under this
17 section to:

18 (a) Engage in work that would result in the displacement of employed workers
19 in the specific Department of Corrections locale. As used in this paragraph,
20 a displaced employed worker is:

21 1. A civilian worker employed in the same task by the employer leasing
22 or applying to lease prisoner labor, who would lose his or her job if
23 the prisoner labor were leased; or

24 2. A civilian worker who is employed full-time and, as a result of the
25 prisoner labor lease, is forced to work part-time, regardless of wage
26 increase.

27 A civilian worker is not considered displaced for the purposes of this

- 1 paragraph if the civilian worker remains employed in a job acceptable to
2 that worker and at equal or higher wages than that worker previously
3 received. The employer shall provide whatever retraining is required of the
4 civilian worker at no cost to the civilian worker;
- 5 (b) Labor in a skill, craft, or trade in which there is a surplus of labor for that
6 skill, craft, or trade in that specific Department of Corrections locale;
- 7 (c) Perform any work that would impair existing contracts for goods or
8 services;
- 9 (d) Perform leased work outside of Department of Corrections facilities; or
10 (e) Perform leased construction work inside or outside Department of
11 Corrections facilities.
- 12 (6) Before the commencement of any leased labor project at a Department of
13 Corrections facility under this section, the department shall:
- 14 (a) Receive a written projection from the Labor Cabinet that the leased labor
15 project shall not result in acts prohibited by subsection (5)(a) to (c) of this
16 section;
- 17 (b) Receive written documentation from the employer leasing or applying to
18 lease prisoner labor agreeing to not displace any of its non-prisoner
19 employees with leased prisoner labor;
- 20 (c) Have written documentation of consultation with local unions representing
21 labor in the specific Department of Corrections facility's locale in any skill,
22 craft, or trade in which a prisoner may labor at that facility. If a local union
23 is not available, the department shall consult with a similar statewide union.
24 The department shall present this information to the Kentucky State
25 Corrections Commission;
- 26 (d) Have written documentation of consultation with local private businesses
27 that may be economically impacted by the leased labor project. The

1 department shall present this information to the Kentucky State Corrections
2 Commission; and

3 (e) Have written documentation of compliance with the National
4 Environmental Policy Act (NEPA).

5 (7) The leasing of prisoner labor shall not be deemed to create an employer-employee
6 relationship between the person leasing the labor of the prisoner and the
7 prisoner. However, the person leasing the labor of the prisoner shall provide for
8 workers' compensation coverage for the prisoner and, if applicable, Social
9 Security coverage for the prisoner.

10 (8) A prisoner, as a condition of participation in a program operating under the
11 provisions of this section, shall agree to the deductions from the prisoner's
12 earnings set out in this subsection. The department or the person leasing the
13 labor of the prisoner shall deduct, in the following order, from a prisoner's gross
14 wages:

15 (a) If the prisoner is the subject of a court or administrative order for the
16 support of a dependent, no less than twenty-five percent (25%) for the
17 payment of the court or administratively ordered support. These deducted
18 wages shall be paid to the Cabinet for Health and Family Services' Child
19 Support Enforcement Program for disbursement in accordance with federal
20 and state law;

21 (b) Twenty percent (20%) to be paid to the crime victim's compensation fund
22 established in KRS 346.185;

23 (c) Applicable federal, state, and local taxes, including Social Security if
24 applicable; and

25 (d) Reasonable room and board fees established by the department by
26 administrative regulation.

27 Total deductions from a prisoner's gross wages shall not exceed eighty percent

1 (80%).

2 (9) The department shall require any person leasing the labor of a prisoner to post
 3 bond, with good surety, in an amount determined by the department, against any
 4 judgment that may be entered against the department arising from the leasing of
 5 prisoner labor to that person.

6 (10) In leasing prisoner labor under this section, the department shall seek to have the
 7 labor leased to the highest responsible bidder.

8 (11) The department shall provide for reasonable access to the grounds of the
 9 Department of Corrections facilities for the person leasing the inmate labor and
 10 for the location of the work and the transporting and siting of equipment and
 11 supplies, with the security of the public being paramount.

12 (12) The department may promulgate administrative regulations to implement the
 13 provisions of this section.

14 ➔SECTION 28. A NEW SECTION OF KRS 196.700 TO 196.735 IS CREATED
 15 TO READ AS FOLLOWS:

16 For a Prison Industry Enhancement Certification Program (PIECP) administered
 17 pursuant to Section 27 of this Act, the Kentucky State Corrections Commission shall:

18 (1) Develop a statewide strategic plan for the development and implementation of
 19 goals, objectives, and criteria for Prison Industry Enhancement Certification
 20 Programs (PIECPs);

21 (2) Conduct a statewide assessment of business opportunities for the Kentucky
 22 Correctional Industries operating locations and private business opportunities;

23 (3) Conduct an assessment of any private business that applies to partner with
 24 PIECPs;

25 (4) Review any information provided to the commission by companies, organized
 26 labor, the Department of Corrections, or any agency of state government in
 27 regard to:

- 1 (a) Potential job displacements relating to PIECPs;
- 2 (b) Appropriate leased-labor pay rates for proposed business participants;
- 3 (c) Opportunities to partner with businesses;
- 4 (d) Reduction in the rate of recidivism; and
- 5 (e) Business plans presented to the commission;
- 6 (5) Provide technical assistance and support to potential partners;
- 7 (6) Submit an annual report no later than September 1 of each year to the
- 8 commissioner, the Governor, and the General Assembly, which shall include at
- 9 least the following information:
- 10 (a) The status of the implementation of the statewide strategic plan;
- 11 (b) The effectiveness of the commission in achieving the goals outlined in this
- 12 section; and
- 13 (c) An accounting of the distribution of profits and losses for the fiscal year;
- 14 (7) Advise the Governor and the commissioner concerning PIECPs' policies and
- 15 programs, including particularly the following:
- 16 (a) The need for, and the development of, new or specialized facilities or
- 17 programs;
- 18 (b) The need for, and the effectuation of, collaboration and liaison within the
- 19 department and between the department and community agencies and
- 20 resources, including the bench and bar, in order to promote the
- 21 readjustment and rehabilitation of offenders in institutions; and
- 22 (c) The need for, and the development of, useful research in development of
- 23 PIECPs; and
- 24 (8) Promulgate administrative regulations in accordance with KRS Chapter 13A for
- 25 businesses and the operating procedures of the Kentucky State Corrections
- 26 Commission, and the procedures for addressing the handling of injury to inmates
- 27 participating in the PIECPs, such as workers' compensation insurance or

1 *another program.*

2 ➔Section 29. KRS 335B.010 is amended to read as follows:

3 As used in KRS 335B.020 to 335B.070, unless the context requires otherwise:

- 4 (1) "Occupation" includes all occupations, trades, vocations, professions, businesses, or
5 employment of any kind for which a license is required to be issued by the
6 Commonwealth of Kentucky, its agencies, or political subdivisions.
- 7 (2) "License" includes all licenses, permits, certificates, registrations, or other means
8 required to engage in an occupation which are granted or issued by the
9 Commonwealth of Kentucky, its agents or political subdivisions before a person can
10 pursue, practice, or engage in any occupation.
- 11 (3) "Public employment" includes all employment with the Commonwealth of
12 Kentucky, its agencies, or political subdivisions.
- 13 (4) "Conviction of a crime" shall be limited to convictions of felonies or~~[, high~~
14 ~~misdemeanors, and]~~ misdemeanors~~[for which a jail sentence may be imposed. No~~
15 ~~other criminal conviction shall be considered unless moral turpitude is involved].~~
- 16 (5) "Hiring or licensing authority" shall mean the person, board, commission, or
17 department of the Commonwealth of Kentucky, its agencies or political
18 subdivisions, responsible by law for the hiring of persons for public employment or
19 the licensing of persons for occupations.

20 ➔Section 30. KRS 335B.020 is amended to read as follows:

- 21 (1) No person shall be disqualified from public employment, nor shall a person be
22 disqualified from pursuing, practicing, or engaging in any occupation for which a
23 license is required solely because of a prior conviction of a crime, unless the crime
24 for which convicted~~[is one described in KRS 335B.010(4) or otherwise]~~ directly
25 relates to the position of employment sought or the occupation for which the license
26 is sought.
- 27 (2) In determining if a conviction directly relates to the position of public employment

1 sought or the occupation for which the license is sought, the hiring or licensing
2 authority shall consider:

- 3 (a) The nature and seriousness of the crime for which the individual was
4 convicted **and the passage of time since its commission;**
- 5 (b) The relationship of the crime to the purposes of regulating the position of
6 public employment sought or the occupation for which the license is sought;
- 7 (c) The relationship of the crime to the ability, capacity, and fitness required to
8 perform the duties and discharge the responsibilities of the position of
9 employment or occupation.

10 ~~[(3) Nothing in KRS 335B.020 to 335B.070 shall be construed so as to limit the power
11 of the hiring or licensing authority to determine that an individual shall be entitled
12 to public employment or a license regardless of that individual's conviction if the
13 hiring or licensing authority determines that the individual has been successfully
14 rehabilitated.]~~

15 ➔Section 31. KRS 335B.030 is amended to read as follows:

- 16 (1) **(a)** If a hiring or licensing authority denies an individual a position of public
17 employment~~[or disqualifies the individual from pursuing, practicing, or
18 engaging in any occupation for which a license is required,]~~ solely because of
19 the individual's prior conviction of a crime, the hiring or licensing authority
20 shall notify the individual in writing of the following:

21 ~~1.[(a)]~~ The grounds and reasons for the denial or disqualification;

22 ~~2.[(b)]~~ That the individual has the right to a hearing conducted in
23 accordance with KRS Chapter 13B, if written request for hearing is
24 made within ten (10) days after service of notice;

25 ~~3.[(c)]~~ The earliest date the person may reapply for a position of public
26 employment or a license; and

27 ~~4.[(d)]~~ That evidence of rehabilitation may be considered upon

1 reapplication.

2 ~~(b)~~~~(2)~~ Any party aggrieved by a final order issued by a hiring or licensing
3 authority after a hearing under this subsection may appeal to Franklin Circuit
4 Court in accordance with KRS Chapter 13B.

5 (2) (a) A hiring or licensing authority shall not disqualify an individual from
6 pursuing, practicing, or engaging in any occupation for which a license is
7 required solely because of the individual's prior conviction of a crime,
8 unless the authority provides the individual with a written notice that the
9 authority has determined that the prior conviction may disqualify the
10 person, demonstrates the connection between the prior conviction and the
11 license being sought, and affords the individual an opportunity to be
12 personally heard before the board prior to the board making a decision on
13 whether to disqualify the individual. If the license is denied after the person
14 was heard, the hiring or licensing authority shall notify the individual in
15 writing of the following:

- 16 1. The grounds and reasons for the denial or disqualification;
17 2. That the individual has the right to a hearing conducted in
18 accordance with KRS Chapter 13B, if a written request for hearing is
19 made within ten (10) days after service of notice;
20 3. The earliest date the person may reapply for a license; and
21 4. That evidence of rehabilitation may be considered upon reapplication.

22 (b) Any party aggrieved by a final order issued by a hiring or licensing
23 authority after a hearing under this subsection may appeal to Franklin
24 Circuit Court in accordance with KRS Chapter 13B.

25 (3) In any administrative hearing or civil litigation authorized under this section, the
26 hiring or licensing authority shall carry the burden of proof on the question of
27 whether the prior conviction directly relates to the position of employment sought

1 *or the occupation for which the license is sought.*

2 ➔Section 32. KRS 335B.060 is repealed, reenacted, and amended to read as
3 follows:

4 *Except for peace officers and other law enforcement personnel and unless preempted*
5 *by federal law,* the provisions of KRS 335B.020 to 335B.070 shall prevail over any other
6 laws, rules and regulations which purport to govern the granting, denial, renewal,
7 suspension, or revocation of a license or the initiation, suspension, or termination of
8 public employment on the grounds of conviction of a crime or crimes.

9 ➔Section 33. The following KRS section is repealed:

10 335B.040 Denial of license on ground of absence of good moral character.

11 ➔Section 34. KRS 164.6911 is amended to read as follows:

12 (1) Except as otherwise provided in subsection (2) of this section, the office shall issue
13 a certificate of registration to an individual who complies with KRS 164.6909(1) or
14 whose application has been accepted under KRS 164.6909(2).

15 (2) The office may refuse to issue a certificate of registration if the office determines
16 that the applicant has engaged in conduct that has a significant adverse effect on the
17 applicant's fitness to act as an athlete agent. In making the determination, the office
18 may consider whether the applicant has:

19 (a) Been convicted of a crime *as defined in Section 29 of this Act* that *directly*
20 *relates to being an athlete agent*, ~~if committed in this state, would be a crime~~
21 ~~involving moral turpitude or a felony~~;

22 (b) Made a materially false, misleading, deceptive, or fraudulent representation in
23 the application or as an athlete agent;

24 (c) Engaged in conduct that would disqualify the applicant from serving in a
25 fiduciary capacity;

26 (d) Engaged in conduct prohibited by KRS 164.6925;

27 (e) Had a registration or licensure as an athlete agent suspended, revoked, or

1 denied, or been refused renewal of registration or licensure as an athlete agent
2 in any state;

3 (f) Engaged in conduct the consequence of which was that a sanction,
4 suspension, or declaration of ineligibility to participate in an interscholastic or
5 intercollegiate athletic event was imposed on a student-athlete or educational
6 institution; or

7 (g) Engaged in conduct that significantly adversely reflects on the applicant's
8 credibility, honesty, or integrity.

9 (3) In making a determination under subsection (2) of this section, the office shall
10 consider:

11 (a) How recently the conduct occurred;

12 (b) The nature of the conduct and the context in which it occurred;~~and~~

13 (c) **The provisions of KRS Chapter 335B, if applicable; and**

14 **(d)** Any other relevant conduct of the applicant.

15 (4) An athlete agent may apply to renew a registration by submitting an application for
16 renewal in a form prescribed by the office. An application filed under this section is
17 a public record. The application for renewal must be signed by the applicant under
18 penalty of perjury and must contain current information on all matters required in an
19 original registration.

20 (5) An individual who has submitted an application for renewal of registration or
21 licensure in another state, in lieu of submitting an application for renewal in the
22 form prescribed pursuant to subsection (4) of this section, may file a copy of the
23 application for renewal and a valid certificate of registration or licensure from the
24 other state. The office shall accept the application for renewal from the other state
25 as an application for renewal in this state if the application to the other state:

26 (a) Was submitted in the other state within six (6) months next preceding the
27 filing in this state and the applicant certifies the information contained in the

- 1 application for renewal is current;
- 2 (b) Contains information substantially similar to or more comprehensive than that
- 3 required in an application for renewal submitted in this state; and
- 4 (c) Was signed by the applicant under penalty of perjury.
- 5 (6) A certificate of registration or a renewal of registration is valid for one (1) year.

6 ➔Section 35. KRS 165A.475 is amended to read as follows:

7 (1) Any person seeking a license to operate, conduct, maintain, or establish a CDL

8 driver training school shall apply to the commission on forms prepared and

9 furnished by the commission. The application shall include the following

10 information:

- 11 (a) The title or name of the school, the names of the owners of the school, and, if
- 12 the owner is to be a corporation, the names and addresses of the officers of the
- 13 corporation;
- 14 (b) Except for corporations, a statement that the owners of the CDL driver
- 15 training school are each twenty-one (21) years of age or over, are residents of
- 16 this state, and have been for at least one (1) year next preceding the
- 17 application for the CDL driver training school license~~], and are each of good~~
- 18 ~~moral character];~~
- 19 (c) A description of the established place of business together with the hours
- 20 during which the CDL driver training school is conducted and a description of
- 21 the equipment and facilities used in CDL driver training;
- 22 (d) Evidence of liability insurance coverage of the CDL driver training school, the
- 23 instructor, and students of the CDL driver training school while operating
- 24 driver training school equipment. The insurance shall have minimum limits of
- 25 not less than twenty-five thousand dollars (\$25,000) for bodily injury or death
- 26 of one (1) person in any one (1) accident and subject to the limit for any one
- 27 (1) person, fifty thousand dollars (\$50,000) for bodily injury or death of two

1 (2) or more persons in any one (1) accident and ten thousand dollars (\$10,000)
2 for damage to the property of others in any one (1) accident. Evidence of
3 insurance coverage shall also provide that the insurance coverage shall not be
4 canceled except after ten (10) days prior notice in writing by the carrier to the
5 commission. Upon request by an applicant, the commission shall review an
6 application and provide a letter to the applicant that a proposed CDL driver
7 training school has met all preliminary requirements for approval, except the
8 provisions of this paragraph. The letter may be used by the applicant to help
9 secure the liability insurance coverage needed under this paragraph to obtain a
10 license to operate a school. A letter provided under this paragraph shall not be
11 construed as approval to perform CDL driver's training or to operate a school.

12 (2) Each original application for a license to operate a CDL driver training school and
13 each application for renewal of a license to operate a CDL driver training school
14 shall be accompanied by the payment of a fee of two hundred dollars (\$200) to the
15 commission and written proof that the applicant has complied with the criminal
16 history background check required by KRS 165A.465. The application fee charged
17 under this subsection shall not be refundable if, based upon the background check,
18 the commission denies the person the right to be issued a license under this chapter.

19 (3) The commission shall pay the Department of Kentucky State Police to inspect and
20 investigate CDL driver training schools under the requirements of subsection (4) of
21 this section. The payment shall be an amount not greater than the actual cost of
22 conducting the inspection and investigation.

23 (4) Upon receipt of an application for a license to operate a CDL driver training school,
24 the commission shall request the Department of Kentucky State Police to
25 investigate the person's program and verify the information contained in the
26 application. The Department of Kentucky State Police shall contact the applicant
27 and make an appointment to inspect the school's facilities. At the time of inspection,

1 the Department of Kentucky State Police shall verify that the school meets the
2 standards promulgated as administrative regulations under KRS Chapter 13A for
3 license as a CDL driver training school. Upon request, the standards shall be
4 furnished to the school by the commission prior to the visit. If the standards are met,
5 the school shall be licensed to offer instruction on how to operate a commercial
6 motor vehicle including classifications, endorsements, and restrictions.

7 (5) Any person seeking a license to act as a CDL driver training instructor shall apply to
8 the commission on forms prepared and furnished by the commission setting forth
9 that the applicant is twenty-one (21) years of age or older; ~~is of good moral~~
10 ~~character;~~ is a high school graduate or has the equivalent of a high school
11 education, or has equivalent experience; and holds a current and valid operator's
12 license.

13 (6) Each original application for a license as a CDL driver training instructor and each
14 application for renewal of a license as a CDL driver training instructor shall be
15 accompanied by the payment of a fee of twenty dollars (\$20) to the commission and
16 written proof that the applicant has complied with the criminal history background
17 check required by KRS 165A.465. The application fee charged under this
18 subsection shall not be refundable if, based upon the background check, the
19 commission denies the person the right to be issued a license under this chapter.

20 (7) In making the determination ~~of~~ **whether to issue a license** ~~good moral character~~
21 under this section, the commission shall consider but shall not be limited to the
22 following:

- 23 (a) If the applicant has been convicted of a crime **as defined in Section 29 of this**
24 **Act**;
- 25 (b) The age of the applicant at the time any criminal conviction was entered;
- 26 (c) The length of time that has elapsed since the applicant's last criminal
27 conviction; ~~and~~

- 1 (d) The relationship of any crime convicted to the ability of the applicant to
2 operate a CDL driver training school or to act as a CDL driver training
3 instructor; and
4 (e) The provisions of KRS Chapter 335B.

5 ➔Section 36. KRS 198B.672 is amended to read as follows:

6 Subject to a hearing conducted in accordance with KRS Chapter 13B, the board may
7 revoke, suspend, place on probation, or restrict the license or certificate of any licensee or
8 certificate holder; refuse to issue or renew a license or certificate; or reprimand, censure,
9 or fine a licensee or certificate holder for any of the following reasons:

- 10 (1) Fraud or deceit in obtaining licensure or certification;
11 (2) Transfer of the authority granted by the license or certificate to another person;
12 (3) Unfair or deceptive trade practices;
13 (4) Willful or deliberate disregard and violation of building codes, electrical codes, or
14 related laws and ordinances of this Commonwealth or any city, county, or urban-
15 county government;
16 (5) Aiding or abetting any person attempting to evade the provisions of KRS 198B.650
17 to 198B.689;
18 (6) Conspiracy or knowingly combining with any person, to allow a license or
19 certificate to be used by an unlicensed or uncertified person, firm, or corporation
20 with intent to evade the provisions of KRS 198B.650 to 198B.689. Allowing a
21 license or certificate to be used by more than one (1) person shall be prima facie
22 evidence of intent to evade the provisions of KRS 198B.650 to 198B.689;
23 (7) Willful or deliberate disregard of disciplinary actions taken by the board, or of a
24 city, county, or urban-county government;
25 (8) Negligence or incompetence in compliance with applicable codes and standards of
26 practice;
27 (9) Violation of any of the provisions of KRS 198B.650 to 198B.689 or any

1 administrative regulation promulgated by the board; or

2 (10) Conviction of a ~~[felony or of any]~~crime **as defined in Section 29 of this Act, if in**
 3 **accordance with KRS Chapter 335B**~~[an element of which is dishonesty or fraud,~~
 4 ~~under the laws of any state or of the United States].~~

5 ➔Section 37. KRS 211.9125 is amended to read as follows:

6 (1) Subject to an administrative hearing conducted in accordance with KRS Chapter
 7 13B, the cabinet may revoke, suspend, or restrict the certificate of a certificate
 8 holder, refuse to issue or renew certification, reprimand, censure, place on
 9 probation, or impose a fine not to exceed five hundred dollars (\$500) on a person
 10 who:

11 (a) Has been convicted of a felony under the laws of the Commonwealth of any
 12 crime that involves theft or dishonesty, or is a sex crime as defined by KRS
 13 17.500, **if in accordance with KRS Chapter 335B;**

14 (b) Has had disciplinary action taken against a professional license, certification,
 15 registration, or permit held by the person seeking certification;

16 (c) Engaged in fraud or deceit in obtaining certification;

17 (d) Attempts to transfer the authority granted by the certificate to another person;

18 (e) Disregards or violates the building codes, electrical codes, or related laws of
 19 this Commonwealth or ordinances of any city, county, urban-county
 20 government, consolidated local government, charter county government, or
 21 unified local government;

22 (f) Aids or abets any person attempting to evade the provisions of KRS 211.9101
 23 to 211.9135 or the administrative regulations promulgated thereunder by the
 24 cabinet;

25 (g) Uses unfair or deceptive trade practices; or

26 (h) Knowingly violates any of the provisions of KRS 211.9101 to 211.9135 or
 27 any administrative regulation promulgated thereunder by the cabinet

1 pertaining to radon measurement, mitigation, or laboratory analysis.

2 (2) If an application for certification or renewal of certification is denied, the person
3 seeking certification shall not conduct radon measurement, mitigation, or laboratory
4 analysis within the Commonwealth of Kentucky.

5 (3) Notwithstanding the existence or pursuit of any other civil or criminal remedy, the
6 cabinet may institute proceedings in the Circuit Court of the county where the
7 person resides for an order enjoining the person from engaging or attempting to
8 engage in activities that violate any provisions of KRS 211.9101 to 211.9135 or any
9 administrative regulation promulgated thereunder by the cabinet pertaining to radon
10 measurement, mitigation, or laboratory analysis.

11 (4) Any final order of the cabinet may be appealed to the Circuit Court of the county in
12 which the person resides after a written decision is rendered in accordance with
13 KRS Chapter 13B.

14 ➔Section 38. KRS 216A.080 is amended to read as follows:

15 (1) No person shall be eligible to practice long-term care administration in this state
16 unless:

17 (a) He or she shall make written application to the board on such forms as are
18 provided therefor;

19 (b) He or she is a citizen of the United States or has declared his or her intent to
20 become a citizen of the United States;

21 (c) He or she provides proof satisfactory to the board that he or she is of good
22 moral character and is otherwise suitable, ***if in accordance with KRS Chapter***
23 ***335B***;

24 (d) He or she has passed an examination approved by the board by promulgation
25 of an administrative regulation; and

26 (e) He or she meets such other requirements as may be established by the board
27 by promulgation of an administrative regulation, so long as the requirements

1 are uniform and are applied to all other applicants for a license.

2 (2) When an applicant has met the requirements as provided herein, the board shall
3 issue the applicant a license to practice long-term care administration in this state.

4 ➔Section 39. KRS 227.630 is amended to read as follows:

5 (1) A license, certification, or certificate of acceptability may be denied, suspended, or
6 revoked on the following grounds:

7 (a) A showing of insolvency in a court of competent jurisdiction;

8 (b) Material misstatement in application for license, certification, or certificate of
9 acceptability;

10 (c) Willful failure to comply with any provisions of KRS 227.550 to 227.660 or
11 any rule or regulation promulgated by the board under KRS 227.550 to
12 227.660;

13 (d) Willfully defrauding any buyer;

14 (e) Willful failure to perform any written agreement with any buyer or retailer;

15 (f) Failure to have or to maintain an established place of business;

16 (g) Failure to furnish or maintain the required insurance;

17 (h) Making a fraudulent sale, transaction, or repossession;

18 (i) Employment of fraudulent devices, methods, or practices in connection with
19 the requirements under the statutes of this state with respect to the retaking of
20 goods under retail installment contracts and the redemption and resale of such
21 goods;

22 (j) Failure by a retailer to put the title to a manufactured home, mobile home, or
23 recreational vehicle in his name after said retailer has acquired ownership of
24 the manufactured home, mobile home, or recreational vehicle by trade or
25 otherwise;

26 (k) Violation of any law relating to the sale or financing of manufactured homes,
27 mobile homes, or recreational vehicles, ***if in accordance with KRS Chapter***

1 **335B.**

2 (2) If a licensee is a firm or corporation, it shall be sufficient cause for the denial,
3 suspension, or revocation of a license that any officer, director, or trustee of the firm
4 or corporation, or any member in case of a partnership, has been guilty of any act or
5 omission which would be cause for refusing, suspending, or revoking a license to
6 such party as an individual. Each licensee shall be responsible for any or all of his
7 or her salespersons while acting as his agent while the said agent is acting within the
8 scope of his authority.

9 (3) Upon proceedings for the suspension of a license, certification, or certificate of
10 acceptability for any of the violations enumerated in KRS 227.550 to 227.660, the
11 licensee or holder of a certificate of acceptability may have the alternative, subject
12 to the approval of the board, to pay in lieu of part or all of the days of any
13 suspension the sum of fifty dollars (\$50) per day. Payments in lieu of suspension
14 collected by the board shall be deposited in the State Treasury and credited to the
15 general expenditure fund.

16 ➔Section 40. KRS 229.200 is amended to read as follows:

17 (1) The authority may suspend, reprimand, revoke, probate, or refuse to renew or issue
18 a license for the following reasons: that the licensee or applicant has, in the
19 judgment of the authority, been guilty of an act detrimental to the interests of
20 boxing, kickboxing, mixed martial arts, or wrestling generally or to the public
21 interest, convenience, or necessity, including, but not by way of limitation, the
22 violation of any of the provisions of this chapter or any rule or administrative
23 regulation of the authority.

24 (2) **If in accordance with KRS Chapter 335B,** the authority may suspend, reprimand,
25 revoke, probate, or refuse to renew or issue a license if it finds that the applicant, or
26 any person who is a partner, agent, employee, stockholder, or associate of the
27 applicant, has been convicted of a crime **as defined in Section 29 of this Act**~~in any~~

1 ~~jurisdiction~~, or is associating or consorting with any person who has or persons
 2 who have been convicted of a crime **as defined in Section 29 of this Act**~~or crimes~~
 3 ~~in any jurisdiction or jurisdictions~~, or is consorting or associating with or has
 4 consorted or associated with bookmakers, gamblers, or persons of similar pursuits,
 5 or has himself engaged in similar pursuits, or is financially irresponsible, or has
 6 been guilty of or attempted any fraud or misrepresentation in connection with
 7 boxing, kickboxing, mixed martial arts, or wrestling, or has violated or attempted to
 8 violate any law with respect to boxing, kickboxing, mixed martial arts, or wrestling
 9 in any jurisdiction or any rule, regulation, or order of the authority, or shall have
 10 violated any rule of boxing, kickboxing, mixed martial arts, or wrestling which shall
 11 have been approved or adopted by the authority, or has been guilty of or engaged in
 12 similar, related, or like practices.

13 (3) (a) The authority may suspend, reprimand, revoke, probate, or refuse to renew or
 14 issue a license to protect the health of the licensee, upon notification of the
 15 suspension or revocation of the license of a licensee in another state or
 16 jurisdiction.

17 (b) Upon proceedings for the revocation of any license under KRS 229.081, the
 18 authority may, in its discretion, order a suspension of the license. However,
 19 the licensee may have the alternative, subject to the approval of the authority,
 20 to pay in lieu of part or all of the days of any suspension period a sum not in
 21 excess of five hundred dollars (\$500).

22 ➔Section 41. KRS 309.086 is amended to read as follows:

23 (1) The board may revoke, suspend, place on probation, or restrict the license,
 24 certificate, or registration of a licensee, certificate holder, or registrant; refuse to
 25 issue or renew a license, certificate, or registration; and reprimand, admonish, or
 26 fine a licensee, certificate holder, or registrant for the following:

27 (a) Fraud or deceit in obtaining licensure, certification, or registration;

- 1 (b) Transferring the authority granted by the license, certificate, or registration to
2 another person;
- 3 (c) Using unfair, false, misleading, or deceptive trade practices;
- 4 (d) Willfully or deliberately disregarding professional standards of practice or
5 violating the code of ethics;
- 6 (e) Aiding and abetting a person who obtains a license, certificate, or registration
7 fraudulently;
- 8 (f) Conspiring or combining with others to obtain a license, certificate, or
9 registration to be used by an unlicensed, uncertified, or unregistered person
10 with the intent to evade the provisions of KRS 309.080 to 309.089 and
11 administrative regulations promulgated pursuant to those sections;
- 12 (g) Negligence or incompetence in complying with the applicable code of ethics
13 and standards of practice or failure to comply with continuing education
14 requirements;
- 15 (h) Violating KRS 309.080 to 309.089 and administrative regulations
16 promulgated pursuant to those sections; or
- 17 (i) Being convicted of any ~~[felony or any other]~~ crime **as defined in Section 29 of**
18 **this Act** in which an element of the crime is dishonesty or fraud, ~~[under the~~
19 ~~laws of any state or the United States]~~ within the past three (3) years, **if in**
20 **accordance with KRS Chapter 335B.**
- 21 (2) The board shall, upon the request of a licensed clinical alcohol and drug counselor,
22 certified alcohol and drug counselor, or registered alcohol and drug peer support
23 specialist, or an applicant for licensure, certification, or registration, hold a hearing
24 pursuant to KRS Chapter 13B before denying an application; refusing to renew a
25 license, certificate, or registration; suspending a license, certificate, or registration;
26 or imposing a fine. The affected party may appeal the board's decision in the Circuit
27 Court where the licensee, certificate holder, or registrant resides. The action of the

1 board shall remain in effect pending any appeals unless the board rescinds or
2 modifies its order.

3 ➔Section 42. KRS 309.137 is amended to read as follows:

- 4 (1) The board may refuse to issue a license or may deny any application, or suspend, or
5 revoke, impose probationary conditions upon, issue a written reprimand or
6 admonishment, or perform any combination thereof regarding any license held or
7 applied for under the provisions of KRS 309.133 if the person:
- 8 (a) Is found guilty of fraud, deceit, or misrepresentation in procuring or renewing
9 or attempting to procure or renew a license to practice art therapy;
 - 10 (b) Committed any unfair, false, misleading, or deceptive act or practice;
 - 11 (c) Has been negligent in the practice of art therapy;
 - 12 (d) Is adjudicated mentally incompetent;
 - 13 (e) Is found guilty of a ***crime as defined in Section 29 of this Act***~~[felony or~~
14 ~~misdemeanor]~~ involving sexual misconduct or ~~[a crime]~~ where dishonesty is a
15 necessary element, ***if in accordance with KRS Chapter 335B***. Conviction
16 includes all instances in which a plea of no contest is the basis of the
17 conviction;
 - 18 (f) Is found guilty of unprofessional or unethical conduct in this or any other
19 jurisdiction;
 - 20 (g) Has been using any controlled substance or alcoholic beverage to an extent or
21 in a manner dangerous to the person, any other person, or the public, or to an
22 extent that the use impairs the ability to perform as a licensed professional art
23 therapist;
 - 24 (h) Has violated any provision of KRS 309.130 to 309.1399 or administrative
25 regulations promulgated thereunder;
 - 26 (i) Failed to comply with an order issued by the board or an assurance of
27 voluntary compliance; or

- 1 (j) Willfully or negligently divulges a professional confidence.
- 2 (2) A certified copy of the record of conviction shall be conclusive evidence of the
3 conviction.
- 4 (3) Disciplinary proceedings may be initiated upon the receipt by the board of a sworn
5 complaint by any person, including members of the board.
- 6 (4) Two (2) years from the date of revocation, any person whose license has been
7 revoked may petition the board for reinstatement. The board shall investigate the
8 petition and may reinstate the licensee if the board finds that the individual has
9 complied with any terms prescribed by the board and is able to competently engage
10 in the practice of art therapy.
- 11 (5) If, after an investigation that includes an opportunity for the licensee to respond, the
12 board determines that a violation took place but was not of a serious nature, it may
13 issue a written admonishment to the licensee. A copy of the admonishment shall be
14 placed in the permanent file of the licensee. The licensee shall have the right to file
15 a response to the admonishment within thirty (30) days of its receipt and to have the
16 response placed in the permanent licensure file. The licensee may alternatively,
17 within thirty (30) days of the receipt, file a request for a hearing with the board.
18 Upon receipt of this request, the board shall set aside the written admonishment and
19 set the matter for a hearing under KRS Chapter 13B.
- 20 (6) The surrender of a license shall not deprive the board of its jurisdiction to proceed
21 with disciplinary actions authorized under KRS 309.130 to 309.1399.
- 22 ➔Section 43. KRS 309.318 is amended to read as follows:
- 23 (1) The board may refuse to issue a license or suspend, revoke, impose probationary
24 conditions upon, impose an administrative fine, issue a written reprimand, or any
25 combination thereof regarding any licensee upon proof that the licensee has:
- 26 (a) Been convicted of a crime as described in KRS 335B.010(4)~~[or an offense]~~
27 that ~~[otherwise]~~ directly relates to the occupation of interpreter, if in

- 1 *accordance with KRS Chapter 335B*. A plea of "no contest" may be treated as
2 a conviction for purposes of disciplinary action;
- 3 (b) Knowingly misrepresented or concealed a material fact in obtaining a license
4 or in reinstatement thereof;
- 5 (c) Committed any fraudulent act or practice;
- 6 (d) Been incompetent or negligent in the practice of interpreting;
- 7 (e) Violated any state statute or administrative regulation governing the practice
8 of interpreting;
- 9 (f) Violated the code of ethics of the national organization issuing the licensee's
10 certification as incorporated in administrative regulation; or
- 11 (g) Violated any federal or state law considered by the board to be applicable to
12 the practice of interpreting.
- 13 (2) When the board issues a written reprimand to the licensee, a copy of the reprimand
14 shall be placed in the permanent file of the licensee. The licensee shall have the
15 right to submit a response within thirty (30) days of its receipt and to have that
16 response filed in the permanent file.
- 17 (3) At any time during the investigative or hearing processes, the board may accept an
18 assurance of voluntary compliance from the licensee which effectively deals with
19 the complaint.
- 20 (4) The board may reconsider, modify, or reverse its probation, suspensions, or other
21 disciplinary action.
- 22 (5) Five (5) years from the date of a revocation, any person whose license has been
23 revoked may petition the board for reinstatement. The board shall investigate the
24 petition and may reinstate the license upon a finding that the individual has
25 complied with any terms prescribed by the board and is again able to competently
26 engage in the practice of interpreting.
- 27 (6) Any party aggrieved by a disciplinary action of the board may bring an action in

1 Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.

2 ➔Section 44. KRS 309.339 is amended to read as follows:

- 3 (1) The board may deny or refuse to renew a license, may suspend or revoke a license,
4 may issue an administrative reprimand, or may impose probationary conditions or
5 fines not to exceed five hundred dollars (\$500) when the licensee has engaged in
6 unprofessional conduct that has endangered or is likely to endanger the health,
7 welfare, or safety of the public. Unprofessional conduct shall include the following:
- 8 (a) Obtaining or attempting to obtain a license by fraud, misrepresentation,
9 concealment of material facts, or making a false statement to the board;
 - 10 (b) Being convicted of a felony in any court if any act for which the licensee or
11 applicant for license was convicted is determined by the board to have a direct
12 bearing on whether the person is trustworthy to serve the public as a licensed
13 diabetes educator, *if in accordance with KRS Chapter 335B*. "Conviction," as
14 used in this paragraph, shall include a finding or verdict of guilty, an
15 admission of guilt, or a plea of nolo contendere in a court of law;
 - 16 (c) Violating any lawful order or administrative regulation promulgated by the
17 board;
 - 18 (d) Violating any provision of KRS 309.325 to 309.339 or administrative
19 regulation promulgated by the board;
 - 20 (e) Evidence of gross negligence or gross incompetence in the practice of diabetes
21 education; and
 - 22 (f) Violating the standards of practice or the code of ethics as promulgated by
23 administrative regulations.

24 (2) All administrative hearings for the disciplinary action against a license or certificate
25 holder shall be conducted in accordance with KRS Chapter 13B.

26 ➔Section 45. KRS 309.362 is amended to read as follows:

27 (1) The board may deny or refuse to renew a license, may suspend or revoke a license,

- 1 may issue an administrative reprimand, or may impose probationary conditions or
2 fines not to exceed five hundred dollars (\$500) when the licensee has engaged in
3 unprofessional conduct that has endangered or is likely to endanger the health,
4 welfare, or safety of the public. Unprofessional conduct shall include the following:
- 5 (a) Obtaining or attempting to obtain a license by fraud, misrepresentation,
6 concealment of material facts, or making a false statement to the board;
 - 7 (b) Being convicted of a felony in any court if the act or acts for which the
8 licensee or applicant for license was convicted are determined by the board to
9 have a direct bearing on whether the person is trustworthy to serve the public
10 as a licensed massage therapist, if in accordance with KRS Chapter 335B.
11 "Conviction," as used in this paragraph, shall include a finding or verdict of
12 guilty, an admission of guilt, or a plea of nolo contendere in a court of law;
 - 13 (c) Violating any lawful order or administrative regulation promulgated by the
14 board;
 - 15 (d) Violating any provision of this chapter or administrative regulations
16 promulgated thereunder;
 - 17 (e) Having sexual contact as defined by KRS 510.010(7) with a client or having
18 engaged or attempted to engage in lewd or immoral conduct with any client or
19 patient;
 - 20 (f) Engaging in fraud or material deception in the delivery of professional
21 services, including reimbursement or advertising services, in a false or
22 misleading manner;
 - 23 (g) Evidence of gross negligence or gross incompetence in the practice of
24 massage therapy; or
 - 25 (h) Violating the standards of practice or the code of ethics as promulgated by
26 administrative regulations.
- 27 (2) Any licensed massage therapist who does not desire to meet the qualifications for

1 active license renewal shall, upon application and payment of an inactive renewal
2 fee, be issued an inactive license. The license shall not entitle the license holder to
3 use the term "licensed massage therapist," nor to engage in the practice of massage
4 therapy. The inactive renewal fee shall not exceed fifty dollars (\$50) annually.

5 (3) To regain active status, the licensee shall upon application show completion of one
6 (1) hour of continuing professional education for each month the license has been in
7 an inactive state not to exceed five (5) years. Waivers or extensions of continuing
8 education may be approved at the discretion of the board. Beyond five (5) years, the
9 licensee shall meet the requirements in KRS 309.358.

10 (4) The board may, at its discretion, deny, refuse to renew, suspend or revoke a license,
11 or impose probationary conditions following an administrative hearing pursuant to
12 KRS Chapter 13B and in accordance with administrative regulations promulgated
13 by the board.

14 (5) The surrender of a license shall not deprive the board of jurisdiction to proceed with
15 disciplinary actions under KRS 309.350 to 309.364.

16 ➔Section 46. KRS 309.418 is amended to read as follows:

17 (1) **If in accordance with KRS Chapter 335B,** the board shall refuse to license, or shall
18 suspend a license, if the person seeking or holding a license has ever been convicted
19 of or entered an Alford plea or plea of nolo contendere to a sex crime as defined in
20 KRS 17.500, a criminal offense against a victim who is a minor as defined in KRS
21 17.500, a felony offense under KRS Chapter 209, or an offense which would
22 classify the person as a violent offender under KRS 439.3401.

23 (2) The board may refuse to issue or renew a license, or may suspend, temporarily
24 suspend, revoke, fine, place on probation, reprimand, reasonably restrict, or take any
25 combination of these actions against any licensee, for the following reasons:

26 (a) Unprofessional or unethical conduct;

27 (b) Mental or physical incapacity that prevents the licensee from engaging or

- 1 assisting in the provision of home medical equipment and services with
 2 reasonable skill, competence, and safety to the public;
- 3 (c) Being convicted of or entering an Alford plea or plea of nolo contendere to,
 4 irrespective of an order granting probation or suspending imposition of any
 5 sentence imposed following the conviction or entry of such plea, one (1) or
 6 more or the following, **if in accordance with KRS Chapter 335B:**
- 7 1. **A crime as defined in Section 29 of this Act**~~felony;~~
 8 2. ~~An act involving gross immorality~~; or
 9 **2.**~~[3.]~~ A violation of the home medical equipment laws, rules, or
 10 administrative regulations of this state, any other state, or the federal
 11 government;
- 12 (d) Knowing or having reason to know that a home medical equipment and
 13 services provider is incapable of engaging or assisting in the practice of
 14 providing home medical equipment and services with reasonable skill,
 15 competence, and safety to the public and failing to report any relevant
 16 information to the board;
- 17 (e) Knowingly making or causing to be made any false, fraudulent, or forged
 18 statement or misrepresentation of a material fact in securing issuance or
 19 renewal of a license;
- 20 (f) Engaging in fraud in connection with the practice of the provision of home
 21 medical equipment and services;
- 22 (g) Engaging in or aiding and abetting an individual to engage or assist in the
 23 provision of home medical equipment and services without a license or falsely
 24 using the title "home medical equipment and services provider," "provider," or
 25 other term which might imply that the individual is a home medical
 26 equipment and services provider; or
- 27 (h) Violation of any order issued by the board to comply with any applicable law

1 or administrative regulation.

2 (3) As used in this section, "unprofessional or unethical conduct" includes but is not
3 limited to the following acts of a home medical equipment and services provider:

4 (a) Engaging in conduct likely to deceive, defraud, or harm the public,
5 demonstrating a willful or careless disregard for the health, welfare, or safety
6 of a sick or disabled person, or engaging in conduct which substantially
7 departs from accepted standards of providing home medical equipment and
8 services ordinarily exercised by a home medical equipment and services
9 provider, with or without established proof of actual injury;

10 (b) Engaging in grossly negligent professional conduct, with or without
11 established proof of actual injury;

12 (c) Obtaining any remuneration by fraud, misrepresentation, or deception;

13 (d) Providing home medical equipment and services that carry a legend or require
14 a prescription without a medical order from a licensed health care practitioner;
15 or

16 (e) Willfully or knowingly failing to maintain complete and accurate records of
17 home medical equipment and services provided in compliance with federal
18 and state laws, rules, or administrative regulations.

19 (4) Any licensee who is found guilty of or enters an Alford plea or plea of nolo
20 contendere to a violation prescribed in subsection (1) or (2)(c) of this section shall,
21 within thirty (30) days, notify the board of that conviction or plea. Failure to do so
22 shall be grounds for suspension or revocation of the license.

23 (5) Any person whose license has been revoked in accordance with this section, other
24 than a person whose license was revoked for being convicted of or entering an
25 Alford plea or plea of nolo contendere to a sex crime as defined in KRS 17.500, a
26 criminal offense against a victim who is a minor as defined in KRS 17.500, a felony
27 offense under KRS Chapter 209, or an offense which would classify the person as a

1 violent offender under KRS 439.3401, may petition the board for reinstatement. The
2 petition shall be made in writing and in a form prescribed by the board. The board
3 shall investigate all reinstatement petitions, and may reinstate a license upon a
4 showing that the former holder has been rehabilitated and is again able to engage in
5 the practice of providing home medical equipment and services with reasonable
6 skill, competency, and safety to the public. Reinstatement may be on the terms and
7 conditions that the board, based on competent evidence, reasonably believes
8 necessary to protect the health and welfare of the citizens of the Commonwealth.

9 (6) Upon exercising the power of revocation provided for in subsection (2) of this
10 section, the board may reasonably prohibit any petition for reinstatement for a
11 period up to and including five (5) years.

12 (7) (a) A licensee who is disciplined under this section for a minor violation may
13 request in writing that the board expunge the minor violation from the
14 licensee's permanent record.

15 (b) The request for expungement may be filed no sooner than three (3) years after
16 the date on which the licensee has completed disciplinary sanctions imposed
17 and if the licensee has not been disciplined for any subsequent violation of the
18 same nature within this period of time.

19 (c) A person shall not have his or her record expunged under this section more
20 than once.

21 (d) The board shall promulgate administrative regulations in accordance with
22 KRS Chapter 13A to establish what are considered minor violations under this
23 subsection. A violation shall be deemed a minor violation if it does not:

- 24 1. Demonstrate a serious inability to practice the profession;
- 25 2. Involve the provisions of home medical equipment and services;
- 26 3. Adversely affect the public health, safety, or welfare;
- 27 4. Result in economic or physical harm to a person; or

1 5. Create a significant threat of such harm.

2 ➔Section 47. KRS 310.042 is amended to read as follows:

3 (1) The board may deny or refuse to renew a license or certificate, suspend or revoke a
4 license or certificate, or issue orders to cease and desist from certain conduct or to
5 otherwise discipline an applicant, a licensee, a certificate holder, or a person found
6 guilty of violating any provisions of this chapter, if that person has:

7 (a) Attempted to or obtained licensure or certification by fraud or
8 misrepresentation;

9 (b) Engaged in habitual intoxication or unprofessional conduct, including, but not
10 limited to, willful acts of negligence or a pattern of continued and repeated
11 malpractice, negligence, or incompetence in the course of professional
12 practice;

13 (c) Engaged in habitual intoxication or personal misuse of any drug, narcotics, or
14 controlled substances so as to adversely affect his ability to practice;

15 (d) Been convicted of a *crime as defined in Section 29 of this Act, if in*
16 *accordance with KRS Chapter 335B*~~[felony or any offense under state and~~
17 ~~federal laws involving moral turpitude];~~

18 (e) Violated any lawful order or ruling of the board or any administrative
19 regulation promulgated by the board; or

20 (f) Violated any provisions of this chapter.

21 (2) All administrative hearings for the disciplinary action against a license or certificate
22 holder shall be conducted in accordance with KRS Chapter 13B.

23 ➔Section 48. KRS 311.480 is amended to read as follows:

24 The board may refuse to license or renew, or may suspend, probate or revoke the license
25 of any podiatrist or in addition to such punishment or in lieu thereof may impose a fine
26 not to exceed five hundred dollars (\$500) for each offense, upon proof that he:

27 (1) Has been convicted of a felony, *if in accordance with KRS Chapter 335B*;

- 1 (2) Has been convicted of a misdemeanor, *if in accordance with KRS Chapter 335B*
2 ~~[involving moral turpitude or conduct likely to deceive or defraud the public];~~
- 3 (3) Has employed, hired, procured or induced a person not licensed to practice podiatry
4 in this state so to practice;
- 5 (4) Has aided or abetted in the practice of podiatry a person not licensed to practice
6 podiatry in this state;
- 7 (5) Has been granted a license upon a mistake of a material fact;
- 8 (6) Has violated any provision of KRS 311.390 to 311.510;
- 9 (7) Has become drug addicted;
- 10 (8) Has become a chronic or persistent alcoholic;
- 11 (9) Has developed such physical or mental disability, or other condition whereby
12 continued practice is dangerous to patients or to the public;
- 13 (10) Has violated any order of suspension, or the terms or the conditions of any order of
14 probation, issued by the board;
- 15 (11) Has engaged in, or attempted to engage in the practice of podiatry under a false or
16 assumed name;
- 17 (12) Has willfully violated a confidential communication;
- 18 (13) Has acted in a grossly negligent or willful manner which is inconsistent with the
19 practice of podiatry;
- 20 (14) Is unfit or incompetent to practice podiatry by reason of gross negligence or other
21 causes including but not limited to being unable to practice podiatry with reasonable
22 skill or safety;
- 23 (15) Has a license to practice as a podiatrist denied, limited, suspended, probated or
24 revoked in another jurisdiction on grounds sufficient to cause a license to be denied,
25 limited, suspended, probated or revoked in this Commonwealth; or
- 26 (16) Has engaged in conduct likely to deceive or defraud the public.
- 27 ➔Section 49. KRS 311.595 is amended to read as follows:

1 If the power has not been transferred by statute to some other board, commission, or
2 agency of this state, the board may deny an application or reregistration for a license;
3 place a licensee on probation for a period not to exceed five (5) years; suspend a license
4 for a period not to exceed five (5) years; limit or restrict a license for an indefinite period;
5 or revoke any license heretofore or hereafter issued by the board, upon proof that the
6 licensee has:

- 7 (1) Knowingly made or presented, or caused to be made or presented, any false,
8 fraudulent, or forged statement, writing, certificate, diploma, or other thing, in
9 connection with an application for a license or permit;
- 10 (2) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion,
11 or conspiracy in connection with an examination for a license;
- 12 (3) Committed, procured, or aided in the procurement of an unlawful abortion,
13 including a partial-birth abortion;
- 14 (4) Entered a guilty or nolo contendere plea, or been convicted, by any court within or
15 without the Commonwealth of Kentucky **of a crime as defined in Section 29 of this**
16 **Act, if in accordance with KRS Chapter 335B**~~[, of committing an act which is, or~~
17 ~~would be a felony under the laws of the Commonwealth of Kentucky, or of the~~
18 ~~United States, or of any crime involving moral turpitude which is a misdemeanor~~
19 ~~under the laws];~~
- 20 (5) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a
21 patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or
22 been found by the board to have had sexual contact as defined in KRS 510.010(7)
23 with a patient while the patient was under the care of the physician;
- 24 (6) Become addicted to a controlled substance;
- 25 (7) Become a chronic or persistent alcoholic;
- 26 (8) Been unable or is unable to practice medicine according to acceptable and
27 prevailing standards of care by reason of mental or physical illness or other

- 1 condition including but not limited to physical deterioration that adversely affects
2 cognitive, motor, or perceptive skills, or by reason of an extended absence from the
3 active practice of medicine;
- 4 (9) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely
5 to deceive, defraud, or harm the public or any member thereof;
- 6 (10) Knowingly made, or caused to be made, or aided or abetted in the making of, a false
7 statement in any document executed in connection with the practice of his
8 profession;
- 9 (11) Employed, as a practitioner of medicine or osteopathy in the practice of his
10 profession in this state, any person not duly licensed or otherwise aided, assisted, or
11 abetted the unlawful practice of medicine or osteopathy or any other healing art;
- 12 (12) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the
13 violation of, or conspired to violate any provision or term of any medical practice
14 act, including but not limited to the code of conduct promulgated by the board under
15 KRS 311.601 or any other valid regulation of the board;
- 16 (13) Violated any agreed order, letter of agreement, final order, or emergency order
17 issued by the board;
- 18 (14) Engaged in or attempted to engage in the practice of medicine or osteopathy under a
19 false or assumed name, or impersonated another practitioner of a like, similar, or
20 different name;
- 21 (15) Obtained a fee or other thing of value on the fraudulent representation that a
22 manifestly incurable condition could be cured;
- 23 (16) Willfully violated a confidential communication;
- 24 (17) Had his license to practice medicine or osteopathy in any other state, territory, or
25 foreign nation revoked, suspended, restricted, or limited or has been subjected to
26 other disciplinary action by the licensing authority thereof. This subsection shall not
27 require relitigation of the disciplinary action;

- 1 (18) Failed or refused, without legal justification, to practice medicine in a rural area of
2 this state in violation of a valid medical scholarship loan contract with the trustees
3 of the rural Kentucky medical scholarship fund;
- 4 (19) Given or received, directly or indirectly, from any person, firm, or corporation, any
5 fee, commission, rebate, or other form of compensation for sending, referring, or
6 otherwise inducing a person to communicate with a person licensed under KRS
7 311.530 to 311.620 in his professional capacity or for any professional services not
8 actually and personally rendered; provided, however, that nothing contained in this
9 subsection shall prohibit persons holding valid and current licenses under KRS
10 311.530 to 311.620 from practicing medicine in partnership or association or in a
11 professional service corporation authorized by KRS Chapter 274, as now or
12 hereinafter amended, or from pooling, sharing, dividing, or apportioning the fees
13 and moneys received by them or by the partnership, corporation, or association in
14 accordance with the partnership agreement or the policies of the board of directors
15 of the corporation or association. Nothing contained in this subsection shall
16 abrogate the right of two (2) or more persons holding valid and current licenses
17 under KRS 311.530 to 311.620 to receive adequate compensation for concurrently
18 rendering professional care to a single patient and divide a fee, if the patient has full
19 knowledge of this division and if the division is made in proportion to the services
20 performed and responsibility assumed by each;
- 21 (20) Been removed, suspended, expelled, or disciplined by any professional medical
22 association or society when the action was based upon what the association or
23 society found to be unprofessional conduct, professional incompetence, malpractice,
24 or a violation of any provision of KRS Chapter 311. This subsection shall not
25 require relitigation of the disciplinary action; or
- 26 (21) Been disciplined by a licensed hospital or medical staff of the hospital, including
27 removal, suspension, limitation of hospital privileges, failing to renew privileges for

1 cause, resignation of privileges under pressure or investigation, or other disciplinary
2 action if the action was based upon what the hospital or medical staff found to be
3 unprofessional conduct, professional incompetence, malpractice, or a violation of
4 any provisions of KRS Chapter 311. This subsection shall not require relitigation of
5 the disciplinary action.

6 ➔Section 50. KRS 311.674 is amended to read as follows:

7 (1) To be licensed by the board as an acupuncturist, an applicant shall:

8 (a) Submit an application approved by the board, with all sections completed,
9 with the required fee;

10 (b) Be of good character and reputation, if in accordance with KRS Chapter
11 335B;

12 (c) Have achieved a passing score on the acupuncture examination administered
13 by the National Commission for Certification of Acupuncture and Oriental
14 Medicine; and

15 (d) Have graduated from a course of training of at least one thousand eight
16 hundred (1,800) hours, including three hundred (300) clinical hours, that is
17 approved by the Accreditation Commission for Acupuncture and Oriental
18 Medicine.

19 All provisions of this subsection, including graduation from an approved course of
20 training as specified in paragraph (d) of this subsection, must be met by all
21 applicants before initial licensure as an acupuncturist may be granted.

22 (2) An acupuncturist who is legally authorized to practice acupuncture in another state
23 and who is presently in good standing in that other state may be licensed by
24 endorsement from the state of his or her credentialing if that state has standards
25 substantially equivalent to those of this Commonwealth.

26 (3) The board may request any reasonable information from the applicant and from
27 collateral sources that is necessary for the board to make an informed decision. The

1 applicant will execute any necessary waiver or release so that the board may obtain
2 necessary information from collateral sources. An application will be considered
3 completed when the applicant has fully answered all sections of the approved
4 application and the board has received all necessary additional information from the
5 applicant and collateral sources.

6 (4) An acupuncturist's license shall be renewed every two (2) years upon fulfillment of
7 the following requirements:

8 (a) The applicant has submitted a renewal application approved by the board
9 within the time specified, with all sections completed, with the required fee;
10 and

11 (b) The applicant is of good character and reputation.

12 (5) The board shall notify each applicant in writing of the action it takes on an
13 application within one hundred twenty (120) days following the board's receipt of a
14 completed application.

15 (6) Notwithstanding any of the requirements for licensure established in this section,
16 and after providing the applicant with reasonable notice of its intended action and
17 after providing a reasonable opportunity to be heard, the board may deny licensure
18 to an applicant without a prior evidentiary hearing upon a finding that the applicant
19 has violated any provision of this section or is otherwise unfit to practice. If the
20 board denies an application, it shall notify the applicant of the grounds on which the
21 denial is based. Orders denying a license may be appealed pursuant to KRS
22 311.593.

23 ➔Section 51. KRS 311.850 is amended to read as follows:

24 (1) The board may revoke, suspend, deny, decline to renew, limit, or restrict the license
25 of a physician assistant, or may fine, reprimand or place a physician assistant on
26 probation for no more than five (5) years upon proof that a physician assistant has:

27 (a) Knowingly made or presented or caused to be made or presented any false,

- 1 fraudulent, or forged statement, writing, certificate, diploma, or other
2 document relating to an application for licensure;
- 3 (b) Practiced, aided, or abetted in the practice of fraud, forgery, deception,
4 collusion, or conspiracy relating to an examination for licensure;
- 5 (c) Been convicted *of a crime as defined in Section 29 of this Act, if in*
6 *accordance with KRS Chapter 335B*~~by any court of a misdemeanor offense~~
7 ~~involving moral turpitude or been convicted of an act that is or would be a~~
8 ~~felony under the laws of the Commonwealth of Kentucky or of the United~~
9 ~~States];~~
- 10 (d) Become addicted to or is an abuser of alcohol, drugs, or any illegal substance;
- 11 (e) Developed a physical or mental disability or other condition that presents a
12 danger in continuing to practice medicine to patients, the public, or other
13 health care personnel;
- 14 (f) Knowingly made or caused to be made or aided or abetted in the making of a
15 false statement in any document executed in connection with the practice of
16 medicine or osteopathy;
- 17 (g) Performed any act or service as a physician assistant without a designated
18 supervising physician;
- 19 (h) Exceeded the scope of medical services described by the supervising
20 physician in the applications required under KRS 311.854;
- 21 (i) Exceeded the scope of practice for which the physician assistant was
22 credentialed by the governing board of a hospital or licensed health care
23 facility under KRS 311.856 and 311.858;
- 24 (j) Aided, assisted, or abetted the unlawful practice of medicine or osteopathy or
25 any healing art, including the unlawful practice of physician assistants;
- 26 (k) Willfully violated a confidential communication;
- 27 (l) Performed the services of a physician assistant in an unprofessional,

- 1 incompetent, or grossly or chronically negligent manner;
- 2 (m) Been removed, suspended, expelled, or placed on probation by any health care
3 facility or professional society for unprofessional conduct, incompetence,
4 negligence, or violation of any provision of this section or KRS 311.858 or
5 311.862;
- 6 (n) Violated any applicable provision of administrative regulations relating to
7 physician assistant practice;
- 8 (o) Violated any term of probation or other discipline imposed by the board; or
- 9 (p) Failed to complete the required number of hours of approved continuing
10 education.
- 11 (2) All disciplinary proceedings against a physician assistant shall be conducted in
12 accordance with the provisions of KRS 311.591, 311.592, 311.593, 311.599, and
13 KRS Chapter 13B and related administrative regulations promulgated under KRS
14 Chapter 311.
- 15 ➔Section 52. KRS 311.890 is amended to read as follows:
- 16 (1) The board may revoke, suspend, deny, decline to renew, limit, or restrict the
17 certification of a surgical assistant, or may fine, reprimand, or place a surgical
18 assistant on probation for no more than five (5) years upon proof that he or she:
- 19 (a) Has been convicted of a felony, ***if in accordance with KRS Chapter 335B***;
- 20 (b) Has been convicted of a misdemeanor, ***if in accordance with KRS Chapter***
21 ***335B*** ~~involving moral turpitude or conduct likely to deceive or defraud the~~
22 ~~public~~;
- 23 (c) Has been granted a certificate upon a mistake of a material fact;
- 24 (d) Has violated any provision of KRS 311.864 to 311.890;
- 25 (e) Has become drug addicted;
- 26 (f) Has become a chronic or persistent alcoholic;
- 27 (g) Has developed such physical or mental disability, or other condition whereby

- 1 continued practice is dangerous to patients or to the public;
- 2 (h) Has violated any order or the terms or the conditions of any order issued by
- 3 the board;
- 4 (i) Has engaged in, or attempted to engage in, practice as a surgical assistant
- 5 under a false or assumed name;
- 6 (j) Has willfully violated a confidential communication;
- 7 (k) Has acted in a grossly negligent or willful manner which is inconsistent with
- 8 practice as a surgical assistant;
- 9 (l) Is unfit or incompetent to practice as a surgical assistant by reason of gross
- 10 negligence or other causes, including but not limited to being unable to
- 11 practice as a surgical assistant with reasonable skill or safety;
- 12 (m) Has had a license or certificate to practice as a surgical assistant denied,
- 13 limited, suspended, probated, or revoked in another jurisdiction;
- 14 (n) Has engaged in conduct likely to deceive or defraud the public;
- 15 (o) Has knowingly made or presented or caused to be made or presented any
- 16 false, fraudulent, or forged statement, writing, certificate, diploma, or other
- 17 document relating to an application for certification;
- 18 (p) Has exceeded the scope of practice of surgical assisting delegated by the
- 19 delegating physician; or
- 20 (q) Has exceeded the scope of practice for which the surgical assistant was
- 21 credentialed by the governing board of a hospital or licensed health care
- 22 facility.
- 23 (2) The board may impose a fine of up to five hundred dollars (\$500) per violation as
- 24 part of a disciplinary action and may require the surgical assistant to reimburse the
- 25 board for all costs of the proceedings.
- 26 ➔Section 53. KRS 311.909 is amended to read as follows:
- 27 (1) The board may revoke, suspend, deny, decline to renew, limit, or restrict the license

1 of an athletic trainer or may impose fines of not less than one hundred dollars
2 (\$100) and not more than five thousand dollars (\$5,000) per violation, including the
3 costs of any proceedings; reprimand; or place an athletic trainer on probation for no
4 more than five (5) years upon proof that the athletic trainer:

5 (a) Knowingly made or presented, or caused to be made or presented, any false,
6 fraudulent, or forged statement, writing, certificate, diploma, or other
7 document relating to an application for licensure or renewal thereof;

8 (b) Practiced or aided or abetted in the practice of fraud, forgery, deception,
9 collusion, or conspiracy relating to an examination for licensure;

10 (c) Has been convicted *of a crime as defined in Section 29 of this Act, if in*
11 *accordance with KRS Chapter 335B*~~[by any court of a misdemeanor offense~~
12 ~~involving moral turpitude or convicted of an act that is or would be a felony~~
13 ~~under the laws of the Commonwealth of Kentucky or of the United States];~~

14 (d) Has become addicted to or is an abuser of alcohol, drugs, or any illegal
15 substances;

16 (e) Developed a physical or mental disability or other condition that presents a
17 danger in continuing to provide athletic training services to patients, the
18 public, or other health-care personnel;

19 (f) Knowingly made, caused to be made, or aided or abetted in the making of a
20 false statement in any document executed in connection with the practice of
21 athletic training;

22 (g) Performed any act or service as an athletic trainer without proper supervision
23 by a licensed physician;

24 (h) Exceeded the scope of medical services or procedures described by the
25 supervising physician in the application required under KRS 311.903;

26 (i) Aided, assisted, or abetted another in the unlawful practice of medicine,
27 osteopathy, chiropractics, or any healing art, including the unlawful practice of

- 1 athletic training;
- 2 (j) Willfully violated a confidential communication;
- 3 (k) Performed the services of an athletic trainer in an unprofessional,
4 incompetent, or grossly or chronically negligent manner;
- 5 (l) Has been removed, suspended, expelled, or placed on probation by any health-
6 care facility for unprofessional conduct, incompetence, negligence, or
7 violation of any provision of KRS 311.900 to 311.928;
- 8 (m) Violated any applicable provision of an administrative regulation relating to
9 athletic training practice;
- 10 (n) Violated any term of probation or other disciplinary order issued by the board
11 or an agreed order defined in KRS 311.550;
- 12 (o) Failed to complete the required number of hours of approved continuing
13 education; or
- 14 (p) Willfully violated any provision of KRS 311.900 to 311.928 or acted outside
15 of the licensed athletic trainer's scope of practice.
- 16 (2) All disciplinary proceedings against an athletic trainer shall be conducted in
17 accordance with the provisions of KRS 311.591, 311.592, 311.593, and 311.599;
18 KRS Chapter 13B; and any related administrative regulations promulgated under
19 KRS Chapter 311, except that the provisions which apply to physicians shall apply
20 to athletic trainers.
- 21 (3) Notwithstanding any of the requirements for licensure established by KRS 311.900
22 to 311.928, the board, after providing the applicant with reasonable notice of its
23 intended action and a reasonable opportunity to be heard, may deny licensure to an
24 applicant without a prior evidentiary hearing upon a finding that the applicant has
25 violated any provisions of KRS 311.900 to 311.928 or is otherwise unfit to practice.
26 Orders denying licensure may be appealed pursuant to KRS 311.593.
- 27 (4) The board may impose restrictions on the scope of practice of an athletic trainer

1 after providing the applicant with reasonable notice of its intended action and a
2 reasonable opportunity to be heard. The Athletic Trainers Advisory Council may
3 make recommendations on such restrictions.

4 (5) The provisions of this chapter shall not be construed as preventing or restricting the
5 practices, services, or activities of a person licensed in accordance with the
6 provisions of another law of the Commonwealth from engaging in the profession or
7 occupation for which he or she is licensed.

8 ➔Section 54. KRS 311A.050 is amended to read as follows:

9 (1) No person shall:

10 (a) Call or hold himself or herself out as or use the title of emergency medical
11 technician, first responder, paramedic, first responder instructor or instructor
12 trainer, emergency medical technician instructor or instructor trainer, or
13 paramedic instructor, paramedic instructor trainer, or paramedic course
14 coordinator unless licensed or certified under the provisions of this chapter.
15 The provisions of this subsection shall not apply if the board does not license
16 or certify a person as an instructor, instructor trainer, or course coordinator in
17 a particular discipline regulated by the board;

18 (b) Operate or offer to operate or represent or advertise the operation of a school
19 or other educational program for first responders, emergency medical
20 technicians, paramedics, or instructors or instructor trainers for first
21 responders, emergency medical technicians, or paramedics unless the school
22 or educational program has been approved under the provisions of this
23 chapter. The provisions of this paragraph shall not apply to continuing
24 education provided by a licensed ambulance service for anyone certified or
25 licensed by the board given by an ambulance service for its employees or
26 volunteers; or

27 (c) Knowingly employ a first responder, emergency medical technician,

1 paramedic, or an instructor or instructor trainer for first responders, emergency
2 medical technicians, or paramedics, or paramedic course coordinator unless
3 that person is licensed or certified under the provisions of this chapter.

- 4 (2) No person licensed or certified by the board or who is an applicant for licensure or
5 certification by the board shall:
- 6 (a) If licensed or certified, violate any provision of this chapter or any
7 administrative regulation promulgated by the board;
 - 8 (b) Use fraud or deceit in obtaining or attempting to obtain a license or
9 certification from the board, or be granted a license upon mistake of a material
10 fact;
 - 11 (c) If licensed or certified by the board, grossly negligently or willfully act in a
12 manner inconsistent with the practice of the discipline for which the person is
13 certified or licensed;
 - 14 (d) Be unfit or incompetent to practice a discipline regulated by the board by
15 reason of negligence or other causes;
 - 16 (e) Abuse, misuse, or misappropriate any drugs placed in the custody of the
17 licensee or certified person for administration, or for use of others;
 - 18 (f) Falsify or fail to make essential entries on essential records;
 - 19 (g) Be convicted of a misdemeanor which involved acts that bear directly on the
20 qualifications or ability of the applicant, licensee, or certified person to
21 practice the discipline for which the person is an applicant, licensee, or
22 certified person, **if in accordance with KRS Chapter 335B;**
 - 23 (h) Be convicted of a misdemeanor which involved fraud, deceit, breach of trust,
24 or physical harm or endangerment to self or others, acts that bear directly on
25 the qualifications or ability of the applicant, licensee, or certificate holder to
26 practice acts in the license or certification held or sought, **if in accordance**
27 **with KRS Chapter 335B;**

- 1 (i) Be convicted of a misdemeanor offense under KRS Chapter 510 involving a
2 patient or be found by the board to have had sexual contact as defined in KRS
3 510.010(7) with a patient while the patient was under the care of the licensee
4 or certificate holder;
- 5 (j) Have had his or her license or credential to practice as a nurse or physician
6 denied, limited, suspended, probated, revoked, or otherwise disciplined in
7 Kentucky or in another jurisdiction on grounds sufficient to cause a license to
8 be denied, limited, suspended, probated, revoked, or otherwise disciplined in
9 this Commonwealth;
- 10 (k) Have a license or certification to practice in any activity regulated by the
11 board denied, limited, suspended, probated, revoked, or otherwise disciplined
12 in another jurisdiction on grounds sufficient to cause a license or certification
13 to be denied, limited, suspended, probated, revoked, or otherwise disciplined
14 in this Commonwealth;
- 15 (l) Violate any lawful order or directive previously entered by the board;
- 16 (m) Have been listed on the nurse aide abuse registry with a substantiated finding
17 of abuse, neglect, or misappropriation of property; or
- 18 (n) Be convicted of, have entered a guilty plea to, have entered an Alford plea to a
19 felony offense, or completed a diversion program for a felony offense, ***if in***
20 ***accordance with KRS Chapter 335B.***
- 21 (3) It shall be unlawful for an employer of a person licensed or certified by the board
22 having knowledge of the facts to refrain from reporting to the board any person
23 licensed or certified by the board who:
- 24 (a) Has been convicted of, has entered a guilty plea to, has entered an Alford plea
25 to a felony offense, or has completed a diversion program for a felony offense;
- 26 (b) Has been convicted of a misdemeanor or felony which involved acts that bear
27 directly on the qualifications or ability of the applicant, licensee, or certified

- 1 person to practice the discipline for which they are an applicant, licensee, or
2 certified person;
- 3 (c) Is reasonably suspected of fraud or deceit in procuring or attempting to
4 procure a license or certification from the board;
- 5 (d) Is reasonably suspected of grossly negligently or willfully acting in a manner
6 inconsistent with the practice of the discipline for which they are certified or
7 licensed;
- 8 (e) Is reasonably suspected of being unfit or incompetent to practice a discipline
9 regulated by the board by reason of negligence or other causes, including but
10 not limited to being unable to practice the discipline for which they are
11 licensed or certified with reasonable skill or safety;
- 12 (f) Is reasonably suspected of violating any provisions of this chapter or the
13 administrative regulations promulgated under this chapter;
- 14 (g) Has a license or certification to practice an activity regulated by the board
15 denied, limited, suspended, probated, revoked, or otherwise disciplined in
16 another jurisdiction on grounds sufficient to cause a license or certification to
17 be denied, limited, suspended, probated, revoked, or otherwise disciplined in
18 this Commonwealth;
- 19 (h) Is practicing an activity regulated by the board without a current active license
20 or certification issued by the board;
- 21 (i) Is reasonably suspected of abusing, misusing, or misappropriating any drugs
22 placed in the custody of the licensee or certified person for administration or
23 for use of others; or
- 24 (j) Is suspected of falsifying or in a grossly negligent manner making incorrect
25 entries or failing to make essential entries on essential records.
- 26 (4) A person who violates subsection (1)(a), (b), or (c) of this section shall be guilty of
27 a Class A misdemeanor for a first offense and a Class D felony for each subsequent

1 offense.

2 (5) The provisions of this section shall not preclude prosecution for the unlawful
3 practice of medicine, nursing, or other practice certified or licensed by an agency of
4 the Commonwealth.

5 (6) The filing of criminal charges or a criminal conviction for violation of the
6 provisions of this chapter or the administrative regulations promulgated thereunder
7 shall not preclude the office of the board from instituting or imposing board
8 disciplinary action authorized by this chapter against any person or organization
9 violating this chapter or the administrative regulations promulgated thereunder.

10 (7) The institution or imposition of disciplinary action by the office of the board against
11 any person or organization violating the provisions of this chapter or the
12 administrative regulations promulgated thereunder shall not preclude the filing of
13 criminal charges against or a criminal conviction of any person or organization for
14 violation of the provisions of this chapter or the administrative regulations
15 promulgated thereunder.

16 ➔Section 55. KRS 311B.160 is amended to read as follows:

17 The board may deny, revoke, or suspend the license of an individual who:

18 (1) Has engaged in conduct relating to his or her profession that is likely to deceive,
19 defraud, or harm the public;

20 (2) Has engaged in alcohol and other drug abuse as defined in KRS 222.005;

21 (3) Develops a physical or mental disability or other condition that makes continued
22 practice or performance of his or her duties potentially dangerous to patients or the
23 public;

24 (4) Performs procedures under or represents as valid to any person a license:

25 (a) Not issued by the board;

26 (b) Containing unauthorized alterations; or

27 (c) Containing changes that are inconsistent with board records regarding its

1 issuance;

2 (5) Has been convicted of a crime that is a felony under the laws of this state or
3 convicted of a felony in a federal court, unless the individual has had all civil rights
4 restored, **if in accordance with KRS Chapter 335B**;

5 (6) Exhibits significant or repeated failure in the performance of professional duties; or

6 (7) Fails to comply with any administrative regulation of the board.

7 ➔Section 56. KRS 312.085 is amended to read as follows:

8 (1) Any persons desiring to practice chiropractic in this state shall make application to
9 the board, in the form and manner established by the board by the promulgation of
10 administrative regulations. Each applicant shall have satisfactorily completed not
11 less than sixty (60) semester credit hours of study from a college or university
12 accredited by the Southern Association of Colleges and Schools or other regional
13 accrediting agencies as recognized by the United States Department of Education
14 and the Council on Higher Education Accreditation, be a graduate of a college or
15 university accredited by the Council on Chiropractic Education or their successors,
16 and which maintains a standard and reputability approved by the board.

17 (2) The board may by administrative regulation require a two-year pre-chiropractic
18 course of instruction to be completed prior to entry into chiropractic college. The
19 board may by administrative regulation establish a preceptorship program where
20 students or graduates of accredited chiropractic colleges as stated in this section
21 may work with and under the direction and supervision of a licensed doctor of
22 chiropractic prior to the taking of the appropriate licensing examination.

23 (3) Applications shall be signed in applicant's own handwriting, and shall be sworn to
24 and before an officer authorized to administer oaths, and shall recite the history of
25 the applicant as to his educational experience, his length of study of chiropractic,
26 what collateral branches he has studied, the length of time he has been engaged in
27 clinical practice, accompanying same with a diploma, or diplomas awarded to

1 applicant by a college or colleges in which such studies were pursued. Certificates
2 of attendance from the college or colleges from which he is a graduate, stating dates
3 of matriculation, graduation, and number of months and hours in attendance shall
4 accompany the application, with satisfactory evidence of good character and
5 reputation. **If in accordance with KRS Chapter 335B,** no license shall be issued to
6 any person convicted of a felony unless he has been pardoned and approved by the
7 board.

8 ➔Section 57. KRS 313.080 is amended to read as follows:

9 (1) No person shall:

- 10 (a) Call or hold himself out as or use the title dentist, dental specialist, dental
11 hygienist, or dental assistant unless licensed or registered under the provisions
12 of this chapter;
- 13 (b) Operate, offer to operate, or represent or advertise the operation of a dental
14 practice of any type unless licensed by or employing individuals licensed by
15 the board;
- 16 (c) Employ a dentist, dental hygienist, or dental assistant unless that person is
17 licensed or registered under the provisions of this chapter; or
- 18 (d) Maintain any license or certificate authorized by this chapter if convicted of,
19 having entered a guilty plea to, having entered an Alford plea to, or having
20 completed a diversion program for a Class A, B, or C felony offense on or
21 after the date of initial licensure or registration.

22 (2) Persons licensed or registered by the board or who are applicants for licensure or
23 registration by the board shall be subject to disciplinary action by the board if they:

- 24 (a) If licensed or registered by the board, violate any provision of this chapter or
25 any administrative regulation promulgated by the board;
- 26 (b) Use fraud or deceit in obtaining or attempting to obtain a license or
27 registration from the board, or are granted a license upon mistake of a material

- 1 fact;
- 2 (c) If licensed or registered by the board, negligently act in a manner inconsistent
3 with the practice of the discipline for which the person is licensed or
4 registered;
- 5 (d) Are unable to practice a discipline regulated by the board with reasonable skill
6 or safety or are unfit or incompetent to practice a discipline regulated by the
7 board;
- 8 (e) Abuse, misuse, or misappropriate any drugs placed in the custody of the
9 licensee or certified person for administration, or for use of others, or those
10 drugs prescribed by the licensee;
- 11 (f) Falsify or fail to make essential entries on essential records;
- 12 (g) Are convicted of a misdemeanor which involved acts which bear directly on
13 the qualifications or ability of the applicant, licensee, or certified person to
14 practice the discipline for which the person is an applicant, licensee, or
15 certified person, **if in accordance with KRS Chapter 335B**;
- 16 (h) Are convicted of a misdemeanor which involved fraud, deceit, breach of trust,
17 or physical harm or endangerment to self or others, acts which bear directly on
18 the qualifications or ability of the applicant, licensee, or certificate holder to
19 practice acts in the license or registration held or sought, **if in accordance**
20 **with KRS Chapter 335B**;
- 21 (i) Are convicted of a misdemeanor offense under KRS Chapter 510 involving a
22 patient;
- 23 (j) Have had a license or certificate to practice as a dentist, dental hygienist, or
24 dental assistant denied, limited, suspended, probated, revoked, or otherwise
25 disciplined in Kentucky or in another jurisdiction on grounds sufficient to
26 cause a license to be denied, limited, suspended, probated, revoked, or
27 otherwise disciplined in this Commonwealth;

- 1 (k) Have a license or registration to practice any activity regulated by the board
2 denied, limited, suspended, probated, revoked, or otherwise disciplined in
3 another jurisdiction on grounds sufficient to cause a license or registration to
4 be denied, limited, suspended, probated, revoked, or otherwise disciplined in
5 this Commonwealth;
- 6 (l) Violate any lawful order or directive previously entered by the board;
- 7 (m) Have been listed on the National Practitioner Databank with a substantiated
8 finding of abuse, neglect, or misappropriation of property;
- 9 (n) Fail to notify the board in writing of any change in the person's name,
10 residential address, employment address, preferred mailing address, or
11 telephone number within thirty (30) days of the change;
- 12 (o) Fail to comply with KRS 422.317 regarding patient records; or
- 13 (p) Fail to report to the board any negative outcome related to dental treatment
14 involving intravenous or conscious sedation beyond anxiety control that
15 requires hospital admission.
- 16 (3) A person who violates subsection (1)(a), (b), (c), or (d) of this section shall be guilty
17 of a Class B misdemeanor for a first offense and a Class A misdemeanor for each
18 subsequent offense. The board shall consider each individual count of a violation as
19 a separate and subsequent offense.
- 20 (4) The provisions of this section shall not preclude prosecution for the unlawful
21 practice of dentistry by an agency of the Commonwealth.
- 22 (5) The filing of criminal charges or a criminal conviction for violation of the
23 provisions of this chapter or the administrative regulations promulgated thereunder
24 shall not preclude the Office of the Board from instituting or imposing board
25 disciplinary action authorized by this chapter against any person or organization
26 violating this chapter or the administrative regulations promulgated thereunder.
- 27 (6) The institution or imposition of disciplinary action by the Office of the Board

1 against any person or organization violating the provisions of this chapter or the
2 administrative regulations promulgated thereunder shall not preclude the filing of
3 criminal charges against or a criminal conviction of any person or organization for
4 violation of the provisions of this chapter or the administrative regulations
5 promulgated thereunder.

6 ➔Section 58. KRS 314.091 is amended to read as follows:

7 (1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend
8 any license or credential to practice nursing issued by the board or applied for in
9 accordance with this chapter or the privilege to practice as a nurse recognized by the
10 board in accordance with this chapter, or to otherwise discipline a licensee,
11 credential holder, privilege holder, or applicant, or to deny admission to the
12 licensure examination, or to require evidence of evaluation and therapy upon proof
13 that the person:

14 (a) Is guilty of fraud or deceit in procuring or attempting to procure a license,
15 credential, or privilege to practice nursing;

16 (b) Has been convicted of any felony, or a misdemeanor involving drugs, alcohol,
17 fraud, deceit, falsification of records, a breach of trust, physical harm or
18 endangerment to others, or dishonesty, under the laws of any state or of the
19 United States, if in accordance with KRS Chapter 335B. The record of
20 conviction or a copy thereof, certified by the clerk of the court or by the judge
21 who presided over the conviction, shall be conclusive evidence;

22 (c) Has been convicted of a misdemeanor offense under KRS Chapter 510
23 involving a patient, or a felony offense under KRS Chapter 510,
24 530.064(1)(a), or 531.310, or has been found by the board to have had sexual
25 contact as defined in KRS 510.010(7) with a patient while the patient was
26 under the care of the nurse;

27 (d) Has negligently or willfully acted in a manner inconsistent with the practice of

- 1 nursing;
- 2 (e) Is unfit or incompetent to practice nursing by reason of negligence or other
3 causes, including but not limited to, being unable to practice nursing with
4 reasonable skill or safety;
- 5 (f) Abuses use of controlled substances, prescription medications, illegal
6 substances, or alcohol;
- 7 (g) Has misused or misappropriated any drugs placed in the custody of the nurse
8 for administration, or for use of others;
- 9 (h) Has falsified or in a negligent manner made incorrect entries or failed to make
10 essential entries on essential records;
- 11 (i) Has a license, privilege, or credential to practice as a nurse denied, limited,
12 suspended, probated, revoked, or otherwise disciplined in another jurisdiction
13 on grounds sufficient to cause a license or privilege to be denied, limited,
14 suspended, probated, revoked, or otherwise disciplined in this
15 Commonwealth, including action by another jurisdiction for failure to repay a
16 student loan;
- 17 (j) Has violated any of the provisions of this chapter;
- 18 (k) Has violated any lawful order or directive previously entered by the board;
- 19 (l) Has violated any administrative regulation promulgated by the board;
- 20 (m) Has been listed on the nurse aide abuse registry with a substantiated finding of
21 abuse, neglect, or misappropriation of property; or
- 22 (n) Has violated the confidentiality of information or knowledge concerning any
23 patient, except as authorized or required by law.
- 24 (2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended
25 or revoked license, privilege, or credential may be reinstated at the discretion of the
26 board, and in accordance with regulations promulgated by the board.
- 27 (3) The executive director may issue subpoenas to compel the attendance of witnesses

1 and the production of documents in the conduct of an investigation. The subpoenas
2 may be enforced by the Circuit Court as for contempt. Any order or subpoena of the
3 court requiring the attendance and testimony of witnesses and the production of
4 documentary evidence may be enforced and shall be valid anywhere in this state.

5 (4) At all hearings on request of the board the Attorney General of this state or one (1)
6 of the assistant attorneys general designated by the Attorney General shall appear
7 and represent the board.

8 (5) A final order of the board shall be by majority vote thereof.

9 (6) Any person adversely affected by any final order of the board may obtain a review
10 thereof by filing a written petition for review with the Circuit Court of the county in
11 which the board's offices are located in accordance with KRS Chapter 13B.

12 (7) If the board substantiates that sexual contact occurred between a nurse and a patient
13 while the patient was under the care of or in a professional relationship with the
14 nurse, the nurse's license, privilege, or credential may be revoked or suspended with
15 mandatory treatment of the nurse as prescribed by the board. The board may require
16 the nurse to pay a specified amount for mental health services for the patient which
17 are needed as a result of the sexual contact.

18 ➔Section 59. KRS 314A.225 is amended to read as follows:

19 (1) The board may refuse to issue a certificate, or may suspend, revoke, impose
20 probationary conditions upon, impose an administrative fine, issue a written
21 reprimand or admonishment, or any combination thereof regarding any certificate
22 holder upon proof that the certificate holder has:

23 (a) Committed any crime, act of dishonesty, or corruption, *if in accordance with*
24 *KRS Chapter 335B*. If the act constitutes a crime, conviction in a criminal
25 proceeding is not a condition precedent to disciplinary action. Upon
26 conviction of the crime, the judgment and sentence are presumptive evidence
27 at the ensuing disciplinary hearing of the guilt of the certificate holder or

- 1 applicant. Conviction includes all instances in which a plea of no contest is
2 the basis of conviction;
- 3 (b) Misrepresented or concealed a material fact in obtaining, renewing or
4 reinstating a certificate;
- 5 (c) Committed any unfair, false, misleading, or deceptive act or practice;
- 6 (d) Been incompetent or negligent in the practice of respiratory care;
- 7 (e) Violated any state statute or administrative regulation governing the practice
8 of respiratory care or any activities undertaken by a respiratory care
9 practitioner;
- 10 (f) Failed to comply with an order issued by the board or an assurance of
11 voluntary compliance;
- 12 (g) Violated the code of ethics as set forth in administrative regulations
13 promulgated by the board; or
- 14 (h) Violated any applicable provision of any federal or state law, *if in accordance*
15 *with KRS Chapter 335B.*
- 16 (2) One (1) year from the date of revocation, any person whose certificate has been
17 revoked may petition the board for reinstatement. The board shall investigate the
18 petition and may reinstate the certificate upon a finding that the individual has
19 complied with any terms prescribed by that board and is again able to competently
20 engage in the practice of respiratory care.
- 21 (3) The board may reconsider, modify, or reverse its probation, suspensions, or other
22 disciplinary actions.
- 23 (4) The surrender of a certificate shall not serve to deprive the board of jurisdiction to
24 proceed with disciplinary action under this chapter.
- 25 ➔Section 60. KRS 315.121 is amended to read as follows:
- 26 (1) The board may refuse to issue or renew a license, permit, or certificate to, or may
27 suspend, temporarily suspend, revoke, fine, place on probation, reprimand,

1 reasonably restrict, or take any combination of these actions against any licensee,
2 permit holder, or certificate holder for the following reasons:

- 3 (a) Unprofessional or unethical conduct;
- 4 (b) Mental or physical incapacity that prevents the licensee, permit holder, or
5 certificate holder from engaging or assisting in the practice of pharmacy or the
6 wholesale distribution or manufacturing of drugs with reasonable skill,
7 competence, and safety to the public;
- 8 (c) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to,
9 irrespective of an order granting probation or suspending imposition of any
10 sentence imposed following the conviction or entry of such plea, one (1) or
11 more or the following, **if in accordance with KRS Chapter 335B:**

12 1. **A crime as defined in Section 29 of this Act**~~[felony];~~

13 ~~[2.—An act involving moral turpitude or gross immorality;]~~ or

14 **2.**~~[3.]~~A violation of the pharmacy or drug laws, rules, or administrative
15 regulations of this state, any other state, or the federal government;

- 16 (d) Knowing or having reason to know that a pharmacist, pharmacist intern, or
17 pharmacy technician is incapable of engaging or assisting in the practice of
18 pharmacy with reasonable skill, competence, and safety to the public and
19 failing to report any relevant information to the board;
- 20 (e) Knowingly making or causing to be made any false, fraudulent, or forged
21 statement or misrepresentation of a material fact in securing issuance or
22 renewal of a license, permit, or certificate;
- 23 (f) Engaging in fraud in connection with the practice of pharmacy or the
24 wholesale distribution or manufacturing of drugs;
- 25 (g) Engaging in or aiding and abetting an individual to engage or assist in the
26 practice of pharmacy without a license or falsely using the title of
27 "pharmacist," "pharmacist intern," "pharmacy technician," or other term which

- 1 might imply that the individual is a pharmacist, pharmacist intern, or
2 pharmacy technician;
- 3 (h) Being found by the board to be in violation of any provision of this chapter,
4 KRS Chapter 217, KRS Chapter 218A, or the administrative regulations
5 promulgated pursuant to these chapters;
- 6 (i) Violation of any order issued by the board to comply with any applicable law
7 or administrative regulation;
- 8 (j) Knowing or having reason to know that a pharmacist, pharmacist intern, or
9 pharmacy technician has engaged in or aided and abetted the unlawful
10 distribution of legend medications, and failing to report any relevant
11 information to the board; or
- 12 (k) Failure to notify the board within fourteen (14) days of a change in one's home
13 address.
- 14 (2) Unprofessional or unethical conduct includes but is not limited to the following acts
15 of a pharmacist, pharmacist intern, or pharmacy technician:
- 16 (a) Publication or circulation of false, misleading, or deceptive statements
17 concerning the practice of pharmacy;
- 18 (b) Divulging or revealing to unauthorized persons patient information or the
19 nature of professional services rendered without the patient's express consent
20 or without order or direction of a court. In addition to members, inspectors, or
21 agents of the board, the following are considered authorized persons:
- 22 1. The patient, patient's agent, or another pharmacist acting on behalf of the
23 patient;
- 24 2. Certified or licensed health-care personnel who are responsible for care
25 of the patient;
- 26 3. Designated agents of the Cabinet for Health and Family Services for the
27 purposes of enforcing the provisions of KRS Chapter 218A;

- 1 4. Any federal, state, or municipal officer whose duty is to enforce the laws
2 of this state or the United States relating to drugs and who is engaged in
3 a specific investigation involving a designated person; or
- 4 5. An agency of government charged with the responsibility of providing
5 medical care for the patient, upon written request by an authorized
6 representative of the agency requesting such information;
- 7 (c) Selling, transferring, or otherwise disposing of accessories, chemicals, drugs,
8 or devices found in illegal traffic when the pharmacist, pharmacy intern, or
9 pharmacy technician knows or should have known of their intended use in
10 illegal activities;
- 11 (d) Engaging in conduct likely to deceive, defraud, or harm the public,
12 demonstrating a willful or careless disregard for the health, welfare, or safety
13 of a patient, or engaging in conduct which substantially departs from accepted
14 standards of pharmacy practice ordinarily exercised by a pharmacist or
15 pharmacy intern, with or without established proof of actual injury;
- 16 (e) Engaging in grossly negligent professional conduct, with or without
17 established proof of actual injury;
- 18 (f) Except as provided in KRS 315.500, selling, transferring, dispensing,
19 ingesting, or administering a drug for which a prescription drug order is
20 required, without having first received a prescription drug order for the drug;
- 21 (g) Willfully or knowingly failing to maintain complete and accurate records of
22 all drugs received, dispensed, or disposed of in compliance with federal and
23 state laws, rules, or administrative regulations;
- 24 (h) Obtaining any remuneration by fraud, misrepresentation, or deception;
- 25 (i) Accessing or attempting to access confidential patient information for persons
26 other than those with whom a pharmacist has a current pharmacist-patient
27 relationship and where such information is necessary to the pharmacist to

1 provide pharmacy care; or

2 (j) Failing to exercise appropriate professional judgment in determining whether
3 a prescription drug order is lawful.

4 (3) Any licensee, permit holder, or certificate holder entering an "Alford" plea, pleading
5 nolo contendere, or who is found guilty of a violation prescribed in subsection
6 (1)(c) of this section shall within thirty (30) days notify the board of that plea or
7 conviction. Failure to do so shall be grounds for suspension or revocation of the
8 license, certificate, or permit.

9 (4) Any person whose license, permit, or certificate has been revoked in accordance
10 with the provisions of this section, may petition the board for reinstatement. The
11 petition shall be made in writing and in a form prescribed by the board. The board
12 shall investigate all reinstatement petitions, and the board may reinstate a license,
13 permit, or certificate upon showing that the former holder has been rehabilitated and
14 is again able to engage in the practice of pharmacy with reasonable skill,
15 competency, and safety to the public. Reinstatement may be on the terms and
16 conditions that the board, based on competent evidence, reasonably believes
17 necessary to protect the health and welfare of the citizens of the Commonwealth.

18 (5) Upon exercising the power of revocation provided for in subsection (1) of this
19 section, the board may reasonably prohibit any petition for reinstatement for a
20 period up to and including five (5) years.

21 (6) Any licensee, permit holder, or certificate holder who is disciplined under this
22 section for a minor violation may request in writing that the board expunge the
23 minor violation from the licensee's, permit holder's, or certificate holder's
24 permanent record.

25 (a) The request for expungement may be filed no sooner than three (3) years after
26 the date on which the licensee, permit holder, or certificate holder has
27 completed disciplinary sanctions imposed and if the licensee, permit holder, or

1 certificate holder has not been disciplined for any subsequent violation of the
2 same nature within this period of time.

3 (b) No person may have his or her record expunged under this section more than
4 once.

5 The board shall promulgate administrative regulations under KRS Chapter 13A to
6 establish violations which are minor violations under this subsection. A violation
7 shall be deemed a minor violation if it does not demonstrate a serious inability to
8 practice the profession; assist in the practice of pharmacy; provide home medical
9 equipment and services; adversely affect the public health, safety, or welfare; or
10 result in economic or physical harm to a person; or create a significant threat of
11 such harm.

12 ➔Section 61. KRS 316.150 is amended to read as follows:

13 (1) The board may refuse to issue or renew, may revoke, or suspend and impose
14 probationary conditions on the license of any Kentucky-licensed embalmer or
15 Kentucky-licensed funeral director, and may issue a written reprimand and impose a
16 fine, for:

17 (a) Violating any provision of this chapter, any lawful order of the board, or any
18 administrative regulation promulgated by the board pursuant to this chapter;

19 (b) Being convicted of any felony, or any misdemeanor if the misdemeanor relates
20 to the practice of embalming or funeral directing, *if in accordance with KRS*
21 *Chapter 335B*. For purposes of this subsection, a conviction includes a
22 finding or verdict of guilt or an entry of a guilty plea or a plea of no contest;

23 (c) Paying or offering to pay, directly or indirectly, any consideration of value to
24 secure a funeral, prior to or after an individual's death, or allowing the
25 applicant's or licensee's employee or immediate family member to pay
26 anything of value to secure a funeral;

27 (d) Soliciting business in any way by offering or giving any service which is not a

- 1 normal function of a licensed embalmer or a licensed funeral director in a
2 regular service;
- 3 (e) Permitting any person who is not a Kentucky-licensed embalmer or Kentucky-
4 licensed funeral director to perform any service pertaining to embalming or
5 funeral directing required by law of a licensed embalmer or a licensed funeral
6 director, from the time of death until interment;
- 7 (f) Misrepresenting or concealing a material fact in obtaining a license or an
8 apprentice registration;
- 9 (g) Assisting any applicant for an embalmer's or a funeral director's license in
10 obtaining the license by misrepresentation or concealment of a material fact in
11 registering for an apprenticeship, or during the period of serving an
12 apprenticeship, or in taking or passing the examination for an embalmer's or a
13 funeral director's license;
- 14 (h) Being sanctioned for a violation of any state or federal statute or
15 administrative regulation governing the funeral industry or its practice for
16 which a plan of correction or remedial action was not accepted by the state or
17 federal authority; or
- 18 (i) Committing any act which constitutes unprofessional, fraudulent, misleading,
19 corrupt, deceptive, or dishonest conduct. If the act constitutes a crime,
20 conviction in a criminal proceeding shall not be a condition precedent to a
21 disciplinary action.
- 22 (2) The board may refuse to issue, may revoke, or suspend and impose probationary
23 conditions on the registration of an apprentice, and may issue a written reprimand
24 and impose a fine, for:
- 25 (a) Violating any of the provisions set out in paragraphs (a) to (i) of subsection
26 (1) of this section; or
- 27 (b) Disobeying the proper orders or instructions of a superior.

- 1 (3) The board may refuse to issue or renew, may revoke, or suspend and impose
2 probationary conditions on the license of any funeral establishment, and may issue a
3 written reprimand and impose a fine, for:
- 4 (a) Misrepresenting or concealing a material fact in obtaining a funeral
5 establishment license;
- 6 (b) Operating a funeral establishment in violation of any lawful order of the board
7 or any state or federal statute or administrative regulation governing the
8 operation of a funeral establishment; or
- 9 (c) Operating a funeral establishment without the supervision of a Kentucky-
10 licensed embalmer or a Kentucky-licensed funeral director.

11 ➔Section 62. KRS 317A.140 is amended to read as follows:

- 12 (1) The board may fine, refuse to issue or renew a license, or revoke or suspend a
13 license upon proper showing of an applicant's, permittee's, or licensee's:
- 14 (a) Conviction of a felony, ***if in accordance with KRS Chapter 335B***;
- 15 (b) Gross malpractice or incompetence;
- 16 (c) Mental or physical health that would endanger public health or safety;
- 17 (d) False or deceptive practice or misrepresentation including advertising;
- 18 (e) Practicing in an unlicensed shop or in a shop knowing that the shop is not
19 complying with this chapter or administrative regulations of the board
20 promulgated pursuant to this chapter;
- 21 (f) Immoral or unprofessional conduct;
- 22 (g) Teaching in an unlicensed school or in a school knowing that the school is not
23 complying with this chapter or administrative regulations of the board
24 promulgated pursuant to this chapter;
- 25 (h) Failure to comply with the administrative regulations of the board.
- 26 (2) Payments in lieu of suspension collected by the board shall be deposited in the State
27 Treasury and credited to the general fund.

1 (3) The board may require retesting of any licensee upon proper showing of gross
2 malpractice or incompetence on the part of the licensee.

3 ➔Section 63. KRS 317B.045 is amended to read as follows:

4 (1) The board may refuse to issue or renew a license, or may suspend, revoke, impose
5 probationary conditions upon, impose an administrative fine, issue a written
6 reprimand or admonishment, or any combination thereof regarding proof of any
7 applicant's or licensee's:

- 8 (a) Conviction of a felony, ***if in accordance with KRS Chapter 335B***;
- 9 (b) Gross malpractice or incompetence;
- 10 (c) Mental or physical health that would endanger public health or safety;
- 11 (d) False or deceptive practice or misrepresentation including advertising;
- 12 (e) Practicing in an unlicensed salon or in a salon knowing that the practice is not
13 in compliance with this chapter or the administrative regulations of the board
14 promulgated pursuant to this chapter;
- 15 (f) Immoral conduct, unprofessional conduct, or a violation of the code of ethics;
- 16 (g) Teaching in an unlicensed school or in a school knowing that the school is not
17 in compliance with this chapter or the administrative regulations of the board
18 promulgated pursuant to KRS 317B.010 to 317B.060; or
- 19 (h) Failure to comply with this chapter or the administrative regulations
20 promulgated by the board.

21 (2) Payments in lieu of suspension collected by the board shall be deposited in the State
22 Treasury and credited to the trust and agency account of the board.

23 (3) The board may require retesting of any licensee upon proper showing of gross
24 malpractice or incompetence on the part of the licensee.

25 (4) Three (3) years from the date of a revocation, any person whose license has been
26 revoked may petition the board for reinstatement. The board shall investigate the
27 petition and may reinstate the license upon a finding that the individual has

1 complied with any terms prescribed by the board, including retesting, and is again
2 able to competently engage in the practice of esthetics.

3 (5) At any time during the investigative or hearing processes, the board may enter into
4 an agreed order or accept an assurance of voluntary compliance with the licensee
5 which effectively deals with the complaint.

6 (6) The board may utilize mediation as a technique in reasonably handling disciplinary
7 matters. The board may appoint any member or members of the board, any staff
8 member, or any other person or combination thereof to serve in the mediation
9 process.

10 (7) The board may reconsider, modify, or reverse its probation, suspension, or other
11 disciplinary action.

12 ➔Section 64. KRS 319.082 is amended to read as follows:

13 (1) The board may suspend, revoke, or refuse to issue or renew a license; may accept an
14 assurance of voluntary compliance; restrict, or place a credential holder on
15 probation; or issue an administrative reprimand or private admonishment upon
16 proof that the credential holder has:

17 (a) Committed any act involving moral turpitude, dishonesty, or corruption,
18 relating to the practice of psychology, whether the act constitutes a crime or
19 not, ***if in accordance with KRS Chapter 335B***. If the act constitutes a crime,
20 conviction in a criminal proceeding is not a condition precedent to
21 disciplinary action. Upon conviction of such a crime, the judgment and
22 sentence is presumptive evidence at the ensuing disciplinary hearing of the
23 guilt of the licensee or applicant of the crime described in the indictment or
24 information and of the person's violation of the statute on which it is based.
25 For the purpose of this subsection, conviction includes all instances in which a
26 plea of guilty or nolo contendere is the basis for the conviction and all
27 proceedings in which the sentence has been deferred or suspended;

- 1 (b) Misrepresented or concealed a material fact in obtaining a license, or in
2 reinstatement thereof;
- 3 (c) Committed any unfair, false, misleading, or deceptive act or practice;
- 4 (d) Been incompetent or negligent in the practice of psychology;
- 5 (e) Practiced psychology while under the suspension, revocation, or restriction of
6 the individual's license to practice by competent authority in any state, federal,
7 or foreign jurisdiction;
- 8 (f) Violated any state statute or administrative regulation governing the practice
9 of psychology;
- 10 (g) Unlawfully failed to cooperate with the board by:
- 11 1. Not furnishing any papers or documents requested by the board;
- 12 2. Not furnishing in writing a complete explanation covering the matter
13 contained in the complaint filed with the board;
- 14 3. Not appearing before the board at the time and place designated; or
- 15 4. Not properly responding to subpoenas issued by the board;
- 16 (h) Failed to comply with an order issued by the board or an assurance of
17 voluntary compliance;
- 18 (i) Aided or abetted an unlicensed person to practice when a license or certificate
19 is required;
- 20 (j) Grossly overcharged for professional services;
- 21 (k) Practiced beyond the scope demonstrated by an appropriate combination of
22 knowledge, skill, experience, training, and education;
- 23 (l) Failed to provide adequate supervision for certified psychologists, licensed
24 psychological associates, applicants for licensure, or other staff;
- 25 (m) Been convicted of any misdemeanor or felony relating to the practice of
26 psychology, *if in accordance with KRS Chapter 335B*. For the purposes of
27 this subsection, conviction includes all instances in which a plea of guilty or

- 1 nolo contendere is the basis for conviction and all proceedings in which the
2 sentence has been deferred or suspended;
- 3 (n) Physically abused or had sexual contact with a patient, client, student, or
4 supervisee;
- 5 (o) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a
6 client, patient, or student, or a felony offense under KRS Chapter 510,
7 530.064(1)(a), or 531.310, or been found by the board to have had sexual
8 contact as defined in KRS 510.010 with a client, patient, student, or
9 supervisee;
- 10 (p) Improperly divulged confidential information;
- 11 (q) Exercised undue influence in such a manner as to exploit the client, patient,
12 student, or supervisee for financial or other personal advantage to the
13 practitioner or a third party;
- 14 (r) Showed an inability to practice psychology with reasonable skill and safety to
15 patients or clients by reason of illness, misuse of drugs, narcotics, alcohol,
16 chemicals, or any other substance, or as a result of any mental or physical
17 condition; or
- 18 (s) Failed to comply with the requirements of the board for continuing education.
- 19 (2) Private admonishment shall not be subject to disclosure to the public under KRS
20 61.878(1)(l) and shall not constitute disciplinary action, but may be used by the
21 board for statistical purposes or in subsequent disciplinary action against the
22 credential holder or applicant.
- 23 (3) No unlawful act or violation of any provision of this chapter by any credential
24 holder employed or supervised by a licensed psychologist shall be cause for the
25 revocation of the supervisor's license, unless the board finds that the licensed
26 psychologist had knowledge of it.
- 27 (4) Three (3) years from the date of a revocation, any person whose license has been

1 revoked may petition the board for reinstatement. The board shall investigate his or
2 her petition and may reinstate his or her license upon finding that the former
3 licensee has complied with the provisions of this chapter and administrative
4 regulations promulgated by the board and is again able to engage in the practice of
5 psychology with reasonable skill, competency, and safety to the public.

6 (5) The board may, at its own discretion, reconsider, modify, or reverse its probations,
7 suspensions, revocations, restrictions, or refusals to issue or renew licenses at any
8 time.

9 ➔Section 65. KRS 319A.190 is amended to read as follows:

10 (1) The board may deny or refuse to renew a license, may suspend or revoke a license,
11 or may impose probationary conditions where the licensee or applicant for licensure
12 has engaged in unprofessional conduct which has endangered or is likely to
13 endanger the health, welfare, or safety of the public. Unprofessional conduct shall
14 include:

15 (a) Obtaining a license by means of fraud, misrepresentation, or concealment of
16 material facts;

17 (b) Unprofessional conduct as defined by administrative regulations promulgated
18 by the board, or violating the code of ethics promulgated by the board;

19 (c) Being convicted of a felony in any court if the act or acts for which he was
20 convicted are found by the board to have a direct bearing on whether he
21 should be entrusted to serve the public in the capacity of a licensed
22 occupational therapist or licensed occupational therapy assistant, *if in*
23 *accordance with KRS Chapter 335B*;

24 (d) Violating any lawful order or administrative regulation rendered or
25 promulgated by the board; or

26 (e) Violating any provision of this chapter.

27 (2) A denial, refusal to renew, suspension, revocation, or imposition of probationary

1 conditions upon a license may be ordered by the board in a decision made after an
2 administrative hearing conducted in accordance with KRS Chapter 13B and
3 administrative regulations promulgated by the board. The board shall have
4 discretion to accept or reject an application for reinstatement following an
5 administrative hearing conducted in accordance with KRS Chapter 13B.

6 (3) The surrender of a license shall not serve to deprive the board of jurisdiction to
7 proceed with disciplinary actions under this chapter.

8 ➔Section 66. KRS 319B.140 is amended to read as follows:

9 (1) The board may deny or refuse to renew a license, may suspend or revoke a license,
10 or may impose probationary conditions where the licensee or applicant for licensure
11 has engaged in unprofessional conduct which has endangered or is likely to
12 endanger the health, welfare, or safety of the public. Unprofessional conduct shall
13 include:

14 (a) Obtaining a license by means of fraud, misrepresentation, or concealment of
15 material facts;

16 (b) Unprofessional conduct as defined by administrative regulations promulgated
17 by the board or violation of the code of ethics promulgated by the board
18 through administrative regulations;

19 (c) Being convicted of a felony in any court if the act or acts for which the
20 applicant or licensee was convicted are found by the board to have a direct
21 bearing on whether he or she should be entrusted to serve the public in the
22 capacity of the licensed profession, ***if in accordance with KRS Chapter 335B;***

23 (d) Violating any lawful order or administrative regulation rendered or
24 promulgated by the board; or

25 (e) Violating any provision of this chapter.

26 (2) A denial, refusal to renew, suspension, revocation, or imposition of probationary
27 conditions upon an applicant or licensee may be ordered by the board in a decision

1 made after an administrative hearing conducted in accordance with KRS Chapter
 2 13B and administrative regulations promulgated by the board. The board may
 3 accept or reject an application for reinstatement following an administrative hearing
 4 conducted in accordance with KRS Chapter 13B.

5 (3) The surrender of a license shall not serve to deprive the board of jurisdiction to
 6 proceed with disciplinary actions under this chapter.

7 ➔Section 67. KRS 319C.070 is amended to read as follows:

8 The board may deny an application or reregistration for a license, place a licensee on
 9 probation for a period not to exceed five (5) years, suspend a license for a period not to
 10 exceed five (5) years, limit or restrict a license for an indefinite period, or revoke any
 11 license issued by the board, upon proof that the licensee has:

12 (1) Knowingly made or presented, or caused to be made or presented, any false,
 13 fraudulent, or forged statement, writing, certificate, diploma, or other thing, in
 14 connection with an application for a license or permit;

15 (2) Practiced, or aided or abetted in the practice of, fraud, forgery, deception, collusion,
 16 or conspiracy in connection with an examination for a license;

17 (3) Entered a guilty or nolo contendere plea, or been convicted, ***of a crime as defined***
 18 ***in Section 29 of this Act, if in accordance with KRS Chapter 335B***~~[by any court~~
 19 ~~within or without the Commonwealth of Kentucky, of committing an act which is,~~
 20 ~~or would be, a felony under the laws of the Commonwealth of Kentucky or of the~~
 21 ~~United States, or of any crime involving moral turpitude which is a misdemeanor~~
 22 ~~under the laws of this or another state];~~

23 (4) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a
 24 patient, or a felony offense under KRS Chapter 510, or KRS 530.064(1)(a) or
 25 531.310, or been found by the board to have had sexual contact as defined in KRS
 26 510.010(7) with a patient while the patient was under the care of the licensee;

27 (5) Become addicted to a controlled substance;

- 1 (6) Become a chronic or persistent alcoholic;
- 2 (7) Been unable or is unable to practice applied behavior analysis according to
3 acceptable and prevailing standards of care by reason of mental or physical illness
4 or other condition, including but not limited to physical deterioration that adversely
5 affects cognitive, motor, or perceptive skills, or by reason of an extended absence
6 from the active practice of applied behavior analysis;
- 7 (8) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely
8 to deceive, defraud, or harm the public or any member thereof; or
- 9 (9) Knowingly made, or caused to be made, or aided or abetted in the making of, a false
10 statement in any document executed in connection with the practice of his
11 profession.

12 ➔Section 68. KRS 320.310 is amended to read as follows:

- 13 (1) The board may refuse to issue, refuse to renew, limit or restrict, revoke, or suspend
14 a license, may place on probation, or reprimand a licensee, may order restitution,
15 may impose a fine not to exceed one thousand dollars (\$1,000) for each violation of
16 this chapter or the corresponding administrative regulations, or may impose any
17 combination of these penalties if it finds that an applicant or a licensee has:
 - 18 (a) Engaged in any practice of fraud or deceit in obtaining or attempting to obtain
19 a license;
 - 20 (b) Been convicted of any felony or has been convicted of a misdemeanor
21 involving sexual misconduct, *if in accordance with KRS Chapter 335B*. A
22 record of the conviction or a certified copy of the record shall be conclusive
23 evidence *of the conviction*;
 - 24 (c) Chronic or persistent inebriety or addiction to a drug habit to an extent that
25 continued practice is dangerous to patients or to the public safety;
 - 26 (d) Been granted a license upon a mistake of material fact;
 - 27 (e) Engaged in incompetence, as determined by the board;

- 1 (f) Practiced as an itinerant, peddled from door to door, established a temporary
2 office, or practiced optometry outside of or away from his or her regular office
3 or place of practice, except that the board may promulgate administrative
4 regulations to authorize the practice of optometry outside of the licensee's
5 regular office for a charitable purpose as defined by the board;
- 6 (g) Employed, procured, induced, aided, or abetted any person, not holding a
7 Kentucky license, to practice optometry or in practicing optometry;
- 8 (h) Used the title "doctor" or its abbreviation without further qualifying this title
9 or abbreviation with the word "optometrist" or suitable words or letters
10 designating an optometry degree;
- 11 (i) Engaged in any conduct likely to deceive or defraud the public;
- 12 (j) Violated any order issued by the board;
- 13 (k) Had his or her license to practice optometry in any other jurisdiction revoked,
14 suspended, limited, placed on conditions of probation, or subjected to any
15 other disciplinary action by that jurisdiction's licensing authority;
- 16 (l) Prescribed any therapeutic agent in an amount that the optometrist knows, or
17 should know, is excessive under accepted and prevailing standards, or which
18 the optometrist knows, or has reason to know, will be used or is likely to be
19 used other than for an accepted therapeutic purpose;
- 20 (m) Developed a physical or mental disability, or other condition, which renders
21 the continued practice by the optometrist dangerous to patients or the public;
22 or
- 23 (n) Violated any statute under this chapter or administrative regulation
24 promulgated under those statutes.
- 25 (2) Nothing in this section shall prevent an optometrist from establishing branch offices
26 if each office contains minimum equipment as required by administrative regulation
27 of the board, ensures patient care as necessary, and has a Kentucky licensed

1 optometrist in charge of the office.

2 (3) Any licensee, permit holder, or certificate holder who is disciplined under this
3 chapter for a minor violation may request in writing that the board expunge the
4 minor violation from the licensee's, permit holder's, or certificate holder's
5 permanent record.

6 (a) The request for expungement may be filed no sooner than three (3) years after
7 the date on which the licensee, permit holder, or certificate holder has
8 completed disciplinary sanctions imposed and if the licensee, permit holder, or
9 certificate holder has not been disciplined for any subsequent violation of the
10 same nature within this period of time.

11 (b) No person may have his or her record expunged under this chapter more than
12 once.

13 The board shall promulgate administrative regulations under KRS Chapter 13A to
14 establish violations which are minor violations under this subsection. A violation
15 shall be deemed a minor violation if it does not demonstrate a serious inability to
16 practice the profession; adversely affect the public health, safety or welfare; or
17 result in economic or physical harm to a person, or create a significant threat of such
18 harm.

19 ➔Section 69. KRS 321.351 is amended to read as follows:

20 (1) The board may refuse to issue a license, or may suspend, revoke, impose
21 probationary or supervisory conditions upon, impose an administrative fine not to
22 exceed five thousand dollars (\$5,000) per violation, issue a written reprimand, issue
23 a private admonishment, or any combination of actions regarding any licensee upon
24 proof that the licensee has:

25 (a) Committed any act of dishonesty or corruption, *if in accordance with KRS*
26 *Chapter 335B*. If the act constitutes a crime, conviction in a criminal
27 proceeding is not a condition precedent to disciplinary action. Upon

1 conviction of the crime, the judgment and sentence are presumptive evidence
2 at the ensuing disciplinary hearing of the guilt of the licensee or applicant.

3 "Conviction," as used in this paragraph, shall include a finding or verdict of
4 guilt, an admission of guilt, or a plea of nolo contendere;

5 (b) Misrepresented or concealed a material fact in obtaining a license, or in
6 reinstatement of a license;

7 (c) Committed any unfair, false, misleading, or deceptive act or practice;

8 (d) Been incompetent or negligent in the practice of veterinary medicine;

9 (e) Violated any state statute or administrative regulation governing the practice
10 of veterinary medicine or any activities undertaken by a veterinarian;

11 (f) Failed to comply with an order issued by the board or an assurance of
12 voluntary compliance;

13 (g) Violated the code of ethical conduct as set forth by the board by
14 administrative regulation; or

15 (h) Violated any applicable provision of any federal or state law or regulation
16 regarding the dispensing of controlled or legend drugs, *if in accordance with*

17 *KRS Chapter 335B.*

18 (2) Five (5) years from the date of a revocation, any person whose license has been
19 revoked may petition the board for reinstatement. The board shall investigate the
20 petition and may reinstate the license upon a finding that the individual has
21 complied with any terms prescribed by the board and is again able to competently
22 engage in the practice of veterinary medicine.

23 (3) When in the judgment of the board, an alleged violation is not of a serious nature,
24 and the evidence presented to the board after the investigation and appropriate
25 opportunity for the licensee to respond, provides a clear indication that the alleged
26 violation did in fact occur, the board may issue a written reprimand to the licensee.
27 A copy of the reprimand shall be placed in the permanent file of the licensee. The

1 licensee shall have the right to file a response to the reprimand within thirty (30)
2 days of its receipt and to have the response placed in the permanent licensure file.
3 The licensee may alternatively, within thirty (30) days of the receipt, file a request
4 for hearing with the board. Upon receipt of this request the board shall set aside the
5 written reprimand and set the matter for hearing.

6 (4) At any time during the investigative or hearing processes, the board may enter into
7 an agreed order or accept an assurance of voluntary compliance with the licensee
8 which effectively deals with the complaint.

9 (5) The board may reconsider, modify, or reverse its probation, suspensions, or other
10 disciplinary action.

11 (6) Private admonishment shall not be subject to disclosure to the public under KRS
12 61.878 and shall not constitute disciplinary action, but may be used by the board for
13 statistical purposes or in a subsequent disciplinary action against the licensee or
14 applicant.

15 ➔Section 70. KRS 322.180 is amended to read as follows:

16 The board may refuse to issue, refuse to renew, suspend, or revoke a license, may
17 reprimand, place on probation, or admonish a licensee, may impose a fine on a licensee
18 not to exceed one thousand dollars (\$1,000), or may impose any combination of these
19 penalties when it finds that an applicant or licensee:

20 (1) Engaged in any practice of fraud or deceit in obtaining a license;

21 (2) Engaged in gross negligence, incompetence, or misconduct in the practice of
22 engineering or land surveying;

23 (3) Violated any provision of this chapter, the administrative regulations promulgated
24 by the board, or the code of professional practice and conduct adopted by the board
25 and incorporated in administrative regulations;

26 (4) Employed, procured, or induced a person not licensed to practice engineering or
27 land surveying in this state;

- 1 (5) Aided or abetted a person not licensed to practice engineering or land surveying in
2 this state;
- 3 (6) Been granted a license upon a mistake of material fact;
- 4 (7) Been convicted by a court of law of a felony, *if in accordance with KRS Chapter*
5 *335B*;
- 6 (8) Become a chronic or persistent alcoholic or has become drug-addicted so that
7 continued practice is dangerous to clients or to the public safety;
- 8 (9) Developed a physical or mental disability or other condition so that continued
9 practice is dangerous to clients or to the public safety;
- 10 (10) Violated any order of suspension or the terms or conditions of any order of
11 probation issued by the board;
- 12 (11) Had a license or registration certificate to practice as an engineer or land surveyor
13 denied, limited, suspended, probated, or revoked in another jurisdiction on grounds
14 sufficient to cause licensure to be denied, limited, suspended, probated, or revoked
15 in this state;
- 16 (12) Engaged in conduct likely to deceive or defraud the public;
- 17 (13) Presented or attempted to use as his or her own the license, seal, or stamp of
18 another;
- 19 (14) Falsely impersonated any other licensee;
- 20 (15) Attempted to use an expired, suspended, or revoked license;
- 21 (16) Provided certification for any plan, specification, plat, report, or physical
22 description not prepared by him or her or under his or her direct supervision; or
- 23 (17) Applied the seal, stamp, signature, or title block of another professional engineer or
24 professional land surveyor to a plan, specification, plat, report, or physical
25 description that was not prepared by the other professional engineer or land
26 surveyor.
- 27 ➔Section 71. KRS 323.120 is amended to read as follows:

- 1 (1) The board may refuse to issue, reissue, or renew a license, or may issue a private or
2 public reprimand or may probate, suspend, or revoke the license of any architect to
3 practice architecture in the Commonwealth of Kentucky, or may impose any
4 combination of these sanctions for any of the following reasons:
- 5 (a) Gross incompetence or gross negligence in the planning or construction of
6 buildings, as determined by the board;
 - 7 (b) Unprofessional conduct, or conduct tending to bring the profession into
8 disrepute, as determined by the board;
 - 9 (c) Conviction of a felony, *if in accordance with KRS Chapter 335B*;
 - 10 (d) Fraudulent or dishonest architectural practice;
 - 11 (e) Use of false evidence or misrepresentations in an application for licensing or
12 an application for a renewal certificate;
 - 13 (f) Signing or affixing his seal to any plans, prints, specifications of buildings, or
14 reports, which have not been prepared by him personally or by his employees
15 under his supervision;
 - 16 (g) Violating any provision of this chapter or administrative regulations
17 promulgated under the chapter;
 - 18 (h) Failing to comply with an order issued by the board;
 - 19 (i) Aiding or abetting someone in the unlicensed practice of architecture; or
 - 20 (j) Having a license or registration certificate to practice as an architect denied,
21 limited, suspended, probated, or revoked in another jurisdiction on grounds
22 sufficient to cause licensure to be denied, limited, suspended, probated, or
23 revoked in this state.
- 24 (2) The board shall revoke the license of an architect who practices architecture while
25 his license is suspended.
- 26 (3) The board may, in lieu of or in addition to other penalties, impose a civil penalty not
27 to exceed ten thousand dollars (\$10,000), which shall be paid to the benefit of the

1 board's trust and agency account.

2 ➔Section 72. KRS 323.412 is amended to read as follows:

- 3 (1) The board may suspend, revoke, or refuse to issue or renew the certificate of any
4 person upon a finding of any of the following:
- 5 (a) The certification was fraudulently obtained;
 - 6 (b) A judgment has been issued against the person for gross incompetence,
7 neglect, or misconduct within the last five (5) years; or
 - 8 (c) A judgment has been issued against the person or the person has pleaded
9 guilty to or been found guilty of fraud or deceit in the person's professional
10 duties within the last five (5) years, *if in accordance with KRS Chapter*
11 *335B.*
- 12 (2) Any person may appeal a finding of the board within thirty (30) days of the date of
13 notification of action. Upon appeal, the board shall schedule an administrative
14 hearing in accordance with KRS Chapter 13B.

15 ➔Section 73. KRS 323A.110 is amended to read as follows:

16 The board may refuse to issue or renew a license, or may place on probation, reprimand,
17 suspend, or revoke the license of any landscape architect to practice landscape
18 architecture in the Commonwealth of Kentucky, and may impose a fine of not less than
19 one hundred dollars (\$100) nor more than ten thousand dollars (\$10,000) per violation,
20 for any of the following reasons:

- 21 (1) Incompetence or negligence in the practice of landscape architecture, as determined
22 by the board;
- 23 (2) Unprofessional conduct, or conduct tending to bring the profession into disrepute,
24 as determined by the board;
- 25 (3) Conviction of a felony, including all instances in which a plea of nolo contendere or
26 no contest is the basis of the conviction, *if in accordance with KRS Chapter 335B;*
- 27 (4) Fraudulent or dishonest landscape architectural practice;

- 1 (5) Use of false evidence or misrepresentations in an application for license;
- 2 (6) Signing or affixing his or her seal to any plans, prints, specifications, or reports
3 which have not been prepared by the landscape architect personally or under his or
4 her immediate supervision;
- 5 (7) Failure to meet the continuing education requirements established by administrative
6 regulation of the board;
- 7 (8) Impairment due to drugs, alcohol, or mental disability to an extent that continued
8 practice may be dangerous to clients or to public safety;
- 9 (9) Failure to comply with an order issued by the board; and
- 10 (10) Violation of any state statute or administrative regulation governing the practice of
11 landscape architecture.

12 ➔Section 74. KRS 324A.050 is amended to read as follows:

- 13 (1) The board may refuse to issue, refuse to renew, suspend, or revoke a certificate or
14 license, reprimand, admonish, place on probation, or impose a fine up to two
15 thousand dollars (\$2000) per each violation determined by the board, not to exceed
16 five thousand dollars (\$5000), on a certificate holder or licensee, or any
17 combination thereof, for any of the following reasons:
 - 18 (a) Procuring or attempting to procure a certificate or license by knowingly
19 making a false statement or submitting false information, or through any form
20 of fraud or misrepresentation;
 - 21 (b) Refusing to provide complete information in response to a question in an
22 application to the board or failing to meet the minimum qualifications
23 established by the board;
 - 24 (c) Being convicted of a~~any~~ felony~~[,] or [of a]misdemeanor[that may result in~~
25 ~~a sentence which includes or requires incarceration], **if in accordance with**
26 **KRS Chapter 335B;**~~
 - 27 (d) Committing an act involving dishonesty, fraud, or misrepresentation;

- 1 (e) Violating any of the provisions of KRS 324A.010 to 324A.090, the
2 administrative regulations of the board, or any lawful order of the board;
- 3 (f) Violating the confidential nature of records to which the appraiser gained
4 access through employment or engagement as an appraiser;
- 5 (g) Committing any other conduct which constitutes or demonstrates bad faith,
6 untrustworthiness, impropriety, fraud, or dishonesty;
- 7 (h) Failing or refusing, without good cause, to exercise reasonable diligence in
8 developing an appraisal, preparing an appraisal report, or communicating an
9 appraisal;
- 10 (i) Being negligent or incompetent in developing an appraisal, in preparing an
11 appraisal report, or in communicating an appraisal;
- 12 (j) Failing to observe one (1) or more of the Uniform Standards of Professional
13 Appraisal Practice; or
- 14 (k) Having a license or registration certificate to practice as a licensed or certified
15 real property appraiser denied, limited, suspended, probated, or revoked in
16 another jurisdiction on grounds sufficient to cause licensure to be denied,
17 limited, suspended, probated, or revoked in this state.
- 18 (2) Notwithstanding any other provision of this chapter to the contrary, the
19 requirements of KRS Chapter 324A, the board's administrative regulations, and the
20 Uniform Standards of Professional Appraisal Practice shall constitute the minimum
21 standard of conduct and performance for a licensee or credential holder in any work
22 or service performed that is addressed by those standards.
- 23 (3) In any proceeding in which a suspension of thirty (30) days or more, or revocation is
24 imposed, the board may require the respondent to pay the actual costs of the
25 investigation and all proceedings not to exceed ten thousand dollars (\$10,000).
- 26 (4) Three (3) years from the date of a revocation, any certificate holder or licensee
27 whose certificate or license has been revoked may petition the board for

1 reinstatement. The board shall investigate the petition and may reinstate, upon a
2 finding that the petitioner has complied with any and all terms prescribed by the
3 board and is able to engage in the practice of real estate appraisal within the
4 requirements of this chapter and the administrative regulations. The board may, in
5 its discretion, require the petitioner to successfully pass the examination required
6 for the applicable certificate or license.

7 ➔Section 75. KRS 325.340 is amended to read as follows:

8 (1) After notice and hearing as provided in KRS Chapter 13B, the board may revoke,
9 suspend, impose a fine not to exceed one thousand dollars (\$1,000) for each
10 violation of a provision of this chapter or administrative regulations promulgated by
11 the board under this chapter, refuse to issue or renew any license, censure, or place
12 on probation any person or firm, all with or without terms, for any one (1) or any
13 combination of the following causes:

14 (a) Fraud or deceit in obtaining a license issued under this chapter;

15 (b) Dishonesty, fraud, or negligence while performing any regulated activity,
16 including fiscal dishonesty or an intentional breach of fiduciary responsibility
17 of any kind, and also including but not limited to the following:

18 1. Knowing preparation, publication, or dissemination of false, fraudulent,
19 or materially misleading financial statements, reports, or information;

20 and

21 2. Embezzlement, theft, misappropriation of funds or property, or
22 obtaining money, property, or other valuable consideration by fraudulent
23 means or false pretenses;

24 (c) Violation of any of the provisions of this chapter or administrative regulations
25 promulgated by the board under this chapter or violation of any order of the
26 board;

27 (d) Violation of a rule of professional conduct promulgated by the board;

- 1 (e) Conviction of any felony, or of any crime in which dishonesty or fraud is an
2 element, under the laws of any state or of the United States. Conviction
3 includes, but is not limited to, pleading no contest, entering an Alford plea, or
4 entry of a court order suspending the imposition of a criminal penalty to a
5 crime, **if in accordance with KRS Chapter 335B**;
- 6 (f) Cancellation, revocation, suspension, or refusal to renew the authority to
7 practice as a certified public accountant or a public accountant in any state;
- 8 (g) Suspension or revocation of the right to practice before any state or federal
9 agency or the Public Company Accounting Oversight Board or its successor;
- 10 (h) Conduct discreditable to the accounting profession; or
- 11 (i) Failure to respond to a board inquiry regarding any licensing or complaint
12 matter.

13 (2) In any proceeding in which a remedy provided by subsection (1) of this section is
14 imposed, the board may also require the respondent to pay the costs of the
15 investigation and all proceedings.

16 ➔Section 76. KRS 326.090 is amended to read as follows:

17 (1) The board may refuse to issue a license, or may suspend, revoke, impose
18 probationary conditions upon, impose an administrative fine upon, or issue a written
19 reprimand against the holder of a license to practice ophthalmic dispensing or an
20 apprentice license if the applicant or licensee has:

- 21 (a) Committed a dishonest or corrupt act, **if in accordance with KRS Chapter**
22 **335B**. If the act is a crime, conviction in a criminal proceeding shall not be a
23 condition precedent to disciplinary action. Upon conviction of the crime, the
24 judgment and sentence are presumptive evidence of guilt at the ensuing
25 disciplinary hearing of the licensee. Conviction includes all instances in which
26 a plea of no contest is the basis of the conviction;
- 27 (b) Committed any unfair, false, misleading, or deceptive act or practice;

- 1 (c) Been incompetent or negligent in the practice of ophthalmic dispensing;
- 2 (d) Failed to comply with a lawful order of the board;
- 3 (e) Aided or abetted another person in falsely procuring or attempting to procure a
- 4 license;
- 5 (f) Aided or abetted an unlicensed person in activities which violate KRS
- 6 326.030 and which are not otherwise exempted from the provisions of this
- 7 chapter;
- 8 (g) Exhibited chronic or persistent inebriety or addiction to a drug habit, to an
- 9 extent that disqualifies the applicant or the licensee from practicing with
- 10 safety to the public;
- 11 (h) Committed fraud or deception in the application or in the examination for the
- 12 license; or
- 13 (i) Violated any provisions of this chapter or administrative regulations
- 14 promulgated in accordance with this chapter.
- 15 (2) The board may impose a fine against any person who:
- 16 (a) Operates an optical establishment without the supervision of a Kentucky-
- 17 licensed ophthalmic dispenser;
- 18 (b) Allows, aids, or abets an unlicensed person to perform activities that violate
- 19 KRS 326.030 and are not otherwise exempted from the provisions of this
- 20 chapter; or
- 21 (c) Allows a Kentucky licensed ophthalmic dispenser to supervise more than one
- 22 (1) optical establishment at the same time.
- 23 (3) After investigating an alleged violation and offering the licensee the opportunity to
- 24 respond to the allegation, the board may issue a written reprimand to the licensee if
- 25 the board determines that a violation that is not of a serious nature has occurred. A
- 26 copy of the reprimand shall be placed in the permanent file of the licensee. The
- 27 licensee may file a written response to the reprimand within thirty (30) days of

1 receiving the reprimand or may request a hearing with the board. If the licensee
2 responds to the reprimand, his or her response shall be placed in the licensee's
3 permanent file. If the licensee requests a hearing, the board shall set aside the
4 written reprimand, pending the outcome of a hearing by the board under the
5 provisions of KRS Chapter 13B.

6 ➔Section 77. KRS 327.070 is amended to read as follows:

7 (1) The board, after due notice and an opportunity for an administrative hearing
8 conducted in accordance with KRS Chapter 13B may take any one (1) or a
9 combination of the following actions against any licensee, certificate holder, or
10 applicant:

- 11 (a) Refuse to license or certify any applicant;
- 12 (b) Refuse to renew the license or certificate of any person;
- 13 (c) Suspend or revoke or place on probation the license or certificate of any
14 person;
- 15 (d) Impose restrictions on the scope of practice of any person;
- 16 (e) Issue an administrative reprimand to any person;
- 17 (f) Issue a private admonishment to any person; and
- 18 (g) Impose fines for violations of this chapter not to exceed two thousand five
19 hundred dollars (\$2,500).

20 (2) The following acts by a licensee, certificate holder, or applicant may be considered
21 cause for disciplinary action:

- 22 (a) Indulgence in excessive use of alcoholic beverages or abusive use of
23 controlled substances;
- 24 (b) Engaging in, permitting, or attempting to engage in or permit the performance
25 of substandard patient care by himself or by persons working under his
26 supervision due to a deliberate or negligent act or failure to act, regardless of
27 whether actual injury to the patient is established;

- 1 (c) Having engaged in or attempted to engage in a course of lewd or immoral
2 conduct with any person:
- 3 1. While that person is a patient of a health care facility defined by KRS
4 216B.015 where the physical therapist or physical therapist's assistant
5 provides physical therapy services; or
- 6 2. While that person is a patient or client of the physical therapist or
7 physical therapist's assistant;
- 8 (d) Having sexual contact, as defined by KRS 510.010(7), without the consent of
9 both parties, with an employee or coworker of the licensee or certificate
10 holder;
- 11 (e) Sexually harassing an employee or coworker of the licensee or certificate
12 holder;
- 13 (f) Conviction of a felony or misdemeanor in the courts of this state or any other
14 state, territory, or country which affects his ability to continue to practice
15 competently and safely on the public, *if in accordance with KRS Chapter*
16 *335B*. "Conviction," as used in this paragraph, shall include a finding or
17 verdict of guilt, an admission of guilt, or a plea of nolo contendere;
- 18 (g) Obtaining or attempting to obtain a license or certificate by fraud or material
19 misrepresentation or making any other false statement to the board;
- 20 (h) Engaging in fraud or material deception in the delivery of professional
21 services, including reimbursement, or advertising services in a false or
22 misleading manner;
- 23 (i) Evidence of gross negligence or gross incompetence in his practice of physical
24 therapy;
- 25 (j) Documentation of being declared mentally disabled by a court of competent
26 jurisdiction and not thereafter having had his rights restored;
- 27 (k) Failing or refusing to obey any lawful order or administrative regulation of the

1 board;

2 (l) Promoting for personal gain an unnecessary device, treatment, procedure, or
3 service, or directing or requiring a patient to purchase a device, treatment,
4 procedure, or service from a facility or business in which he has a financial
5 interest; and

6 (m) Being impaired by reason of a mental, physical, or other condition that
7 impedes his or her ability to practice competently.

8 (3) A private admonishment shall not be subject to disclosure to the public under KRS
9 61.878(1)(l). A private admonishment shall not constitute disciplinary action but
10 may be used by the board for statistical purposes or in subsequent disciplinary
11 action against the same licensee, certificate holder, or applicant.

12 ➔Section 78. KRS 329.070 is amended to read as follows:

13 The cabinet may deny, suspend or revoke any license on any one or more of the following
14 grounds:

15 (1) Material misstatement in the application for a license or in the application for a
16 renewal license.

17 (2) Willful disregard or violation of this chapter or of any regulation or rule issued
18 pursuant thereto.

19 (3) If the holder of any license has been adjudged guilty of the commission of a felony
20 or a misdemeanor, if in accordance with KRS Chapter 335B~~involving moral~~
21 ~~turpitude~~.

22 (4) Making any willful misrepresentation or false promises or causing to be printed any
23 false or misleading advertisement for the purpose of directly or indirectly obtaining
24 business or trainees.

25 (5) Having demonstrated unworthiness or incompetency to act as an examiner or
26 trainee, as defined under this chapter, in such manner as to effect the interests of the
27 public.

- 1 (6) Allowing one's license under this chapter to be used by an unlicensed person in
2 violation of the provisions of this chapter.
- 3 (7) Willfully aiding or abetting another in the violation of this chapter or of any
4 regulation or rule issued pursuant thereto.
- 5 (8) Where the license holder has been adjudged mentally ill, mentally deficient or in
6 need of mental treatment as provided in the Mental Health Code.
- 7 (9) Failing, within a reasonable time, to provide information requested by the cabinet as
8 the result of a formal or informal complaint to the cabinet, which would indicate a
9 violation of this chapter.

10 ➔Section 79. KRS 329A.065 is amended to read as follows:

- 11 (1) The board may refuse to issue a license, or suspend, revoke, impose probationary
12 conditions, impose an administrative fine, issue a written reprimand, or any
13 combination thereof regarding any licensee upon proof that the licensee or applicant
14 has:
- 15 (a) Violated any provision of KRS 329A.010 to 329A.090 or any administrative
16 regulation promulgated by the board;
- 17 (b) Knowingly and willfully made a material misstatement in connection with an
18 application for license or renewal;
- 19 (c) Been convicted of a felony, ***if in accordance with KRS Chapter 335B***;
- 20 (d) Practiced fraud, deceit, or misrepresentation;
- 21 (e) Committed any act that would have been cause for refusal to issue the license
22 had it existed and been known to the board at the time of issuance;
- 23 (f) Been incompetent or negligent in the practice of private investigating; or
- 24 (g) Violated the code of ethics promulgated by administrative regulation by the
25 board.
- 26 (2) In addition to or in lieu of any other lawful disciplinary action under this section, the
27 board may assess a civil penalty not exceeding two thousand dollars (\$2,000).

- 1 (3) When the board issues a written reprimand to the licensee a copy of the reprimand
2 shall be placed in the permanent file of the licensee. The licensee shall have the
3 right to submit a response within thirty (30) days of its receipt and to have that
4 response filed in the permanent file.
- 5 (4) At any time during the investigative or hearing processes, the board may accept an
6 assurance of voluntary compliance from the licensee if the assurance effectively
7 deals with the complaint.
- 8 (5) The board may reconsider, modify, or reverse its probation, suspension, or other
9 disciplinary action.
- 10 (6) Any party aggrieved by a disciplinary action of the board may bring an action in
11 Franklin Circuit Court pursuant to the provisions of KRS Chapter 13B.
- 12 (7) A license shall be subject to expiration and renewal during any period in which the
13 license is suspended.
- 14 ➔Section 80. KRS 334.120 is amended to read as follows:
- 15 (1) Complaints against licensed persons shall be handled by the board in the following
16 manner:
- 17 (a) Any person desiring to make a complaint against a licensee under this chapter
18 shall reduce the complaint to writing and file it with the board.
- 19 (b) The board may conduct an investigation into any complaint which the board
20 feels may constitute a violation of this chapter or the administrative
21 regulations promulgated thereunder.
- 22 (c) The board may require that the licensee file a statement or report in writing as
23 to the facts and circumstances concerning the complaint together with other
24 information, material, or data reasonably related thereto.
- 25 (d) The board may request the assistance of the Attorney General in connection
26 with an investigation.
- 27 (e) The board may employ the services of a hearing officer to conduct hearings,

1 prehearing conferences, advise the board as to legal matters, and provide other
2 legal services deemed appropriate by the board.

3 (2) If the board determines the charges made in the complaint are sufficient to warrant a
4 hearing to determine whether the license issued under this chapter shall be
5 suspended, revoked, or subject to reprimand or fine, it shall conduct a hearing in
6 accordance with KRS Chapter 13B.

7 (3) The provisions of this chapter shall in no way limit the jurisdiction and authority of
8 the Attorney General to take any necessary action under the Kentucky Consumer
9 Protection Act, KRS 367.110 to 367.300.

10 (4) The board may suspend, revoke, or levy a fine not to exceed one thousand dollars
11 (\$1,000), refuse to issue or renew any license for a fixed period of time, place on
12 probation, issue a written reprimand to a licensee, or any combination thereof, based
13 on a finding of the board after hearing that a person licensed under the provisions of
14 this chapter has committed any of the following acts:

15 (a) Change of personal name, corporate name, charter, entity, or partnership name
16 or composition to avoid the imposition of liens or court action;

17 (b) The conviction of a felony, or a misdemeanor, **if in accordance with KRS**
18 **Chapter 335B** ~~involving moral turpitude~~. The record of conviction, or a
19 copy thereof, certified by the clerk of the court or by the judge in whose court
20 the conviction is had, shall be conclusive evidence of that conviction;

21 (c) Procuring of license by fraud or deceit practiced upon the board;

22 (d) Unethical conduct as defined by the board by promulgation of an
23 administrative regulation;

24 (e) Engaging in any unfair, false, misleading, or deceptive act or practice;

25 (f) Incompetence or negligence in the practice of selling or fitting hearing
26 instruments; or

27 ➔Section 81. KRS 334A.180 is amended to read as follows:

- 1 (1) The board may refuse to issue a license, suspend or revoke the license of any
2 licensee, or fine a licensee an amount agreed upon by a two-thirds (2/3) vote of the
3 board in an amount not to exceed one thousand dollars (\$1,000), and the board may
4 take action against a license and fine a licensee if he or she has been guilty of
5 unprofessional conduct which has endangered or is likely to endanger the health,
6 welfare, or safety of the public. Such unprofessional conduct may include:
- 7 (a) Obtained the license by means of fraud, misrepresentation, or concealment of
8 material facts;
 - 9 (b) Has been guilty of unprofessional conduct as defined by the rules established
10 by the board, or has violated the code of ethics adopted and published by the
11 board;
 - 12 (c) Has violated any lawful order, rule, or regulation rendered or adopted by the
13 board;
 - 14 (d) Has represented that the professional services or advice of a physician has
15 been used, or has used the words "doctor," "clinic," or similar words,
16 abbreviations, or symbols while failing to affix the word, term, or initials
17 pertaining to "audiology," "audiologic," "audiologist," "doctor of audiology,"
18 "speech-language pathologist," "speech-language pathology," "Au.D.,"
19 "Ph.D.," or "Sc.D.";
 - 20 (e) Has failed to affix the word, term, or initials specified in paragraph (d) of this
21 subsection in any sign, written communication, or advertising media in which
22 the term "doctor" or the abbreviation "Dr." is used in relation to the
23 audiologist or speech-language pathologist holding a doctoral degree; or
 - 24 (f) Has violated any provisions of this chapter.
- 25 (2) The board shall deny an application for, or suspend or revoke, or impose
26 probationary conditions upon, a license as ordered by the board in any decision
27 made after hearing as provided in this chapter. One (1) year from the date of

1 revocation of a license under this chapter, application may be made to the board for
2 reinstatement. The board shall have discretion to accept or reject an application for
3 reinstatement.

4 (3) A person applying for reinstatement of licensure shall provide evidence of
5 completion of continuing professional education in speech-language pathology or
6 audiology as prescribed by the board.

7 (4) A plea or verdict of guilty or a conviction following a plea of nolo contendere made
8 to a charge of a felony is deemed to be a conviction within the meaning of this
9 chapter. At the direction of the board, *if in accordance with KRS Chapter 335B,*
10 the license shall be suspended or revoked, or shall decline to issue a license when
11 the time for appeal has elapsed, or the judgment of conviction has been affirmed on
12 appeal, or when an order granting probation is made suspending the imposition of
13 sentence irrespective of a subsequent order under the provisions of the penal code
14 allowing such person to withdraw his plea of guilty and to enter a plea of not guilty,
15 or setting aside the verdict of guilty, or dismissing the acquisition, information or
16 indictment.

17 ➔Section 82. KRS 335.150 is amended to read as follows:

18 (1) The board may revoke, suspend, or refuse to issue or renew; impose probationary or
19 supervisory conditions upon; impose an administrative fine; issue a written
20 reprimand or admonishment; or any combination of actions regarding any applicant,
21 license, or licensee upon proof that the applicant or licensee has:

22 (a) Committed any act of dishonesty or corruption, *if in accordance with KRS*
23 *Chapter 335B.* If the act constitutes a crime, conviction in a criminal
24 proceeding is not a condition precedent to disciplinary action. Upon
25 conviction of the crime, the judgment and sentence creates a rebuttable
26 presumption at the ensuing disciplinary hearing of the guilt of the applicant or
27 licensee. Conviction includes all instances in which a plea of no contest is the

- 1 basis of the conviction;
- 2 (b) Misrepresented or concealed a material fact in obtaining a license, or in
3 reinstatement thereof;
- 4 (c) Committed any unfair, false, misleading, or deceptive act or practice;
- 5 (d) Been incompetent or negligent in the practice of social work;
- 6 (e) Violated any state statute or administrative regulation governing the practice
7 of social work or any activities undertaken by a social worker;
- 8 (f) Failed to comply with an order issued by the board or an assurance of
9 voluntary compliance;
- 10 (g) Violated the code of ethical conduct as set forth by the board by promulgation
11 of an administrative regulation;
- 12 (h) Been legally declared mentally incompetent;
- 13 (i) Aided or abetted another person in falsely procuring or attempting to procure a
14 license; or
- 15 (j) Aided or abetted an unlicensed person in the practice of social work.
- 16 (2) Five (5) years from the date of a revocation, any person whose license has been
17 revoked may petition the board for reinstatement. The board shall investigate the
18 petition and may reinstate the license upon a finding that the individual has
19 complied with any terms prescribed by the board and is again able to engage
20 competently in the practice of social work.
- 21 (3) If an alleged violation is not of a serious nature and the evidence presented to the
22 board, after the investigation and appropriate opportunity for the licensee to
23 respond, provides a clear indication that the alleged violation did in fact occur, the
24 board may issue a written admonishment to the licensee. A copy of the
25 admonishment shall be placed in the permanent file of the licensee. The licensee
26 shall have the right to file a response within thirty (30) days of its receipt and to
27 have the response placed in the licensee's permanent file. Alternatively, the licensee

1 may file a request for a hearing, within thirty (30) days of the receipt of the written
2 admonishment. Upon receipt of this request, the board shall set aside the written
3 admonishment and set the matter for hearing.

4 (4) At any time during the investigative or hearing processes, the board may enter into
5 an agreed order with, or accept an assurance of voluntary compliance from, the
6 licensee that effectively satisfies the complaint.

7 (5) The board may reconsider, modify, or reverse its decision regarding probation,
8 suspension, or any other disciplinary action.

9 (6) Upon proof substantiating that sexual contact occurred between a social worker
10 licensed by the board and a client while the client was under the care of or in a
11 professional relationship with the social worker, the social worker's license may be
12 revoked or suspended with mandatory treatment of the social worker as prescribed
13 by the board. The board may require the social worker to pay a specified amount for
14 mental health services for the client which are needed as a result of the sexual
15 contact.

16 (7) The board may revoke the license of a social worker if the social worker has been
17 convicted of a misdemeanor offense under KRS Chapter 510 involving a client or a
18 felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or has been
19 found to have had sexual contact as defined in KRS 510.010(7) with a client while
20 the client was under the care of the social worker.

21 ➔Section 83. KRS 335.348 is amended to read as follows:

22 (1) The board may refuse to issue a license or permit, or may suspend, revoke, impose
23 probationary conditions upon, impose an administrative fine, issue a written
24 reprimand or admonishment, or any combination thereof regarding any licensee or
25 permit holder upon proof that the licensee or permit holder has:

26 (a) Committed any act of dishonesty or corruption, *if in accordance with KRS*
27 *Chapter 335B.* If the act constitutes a crime, conviction in a criminal

1 proceeding is not a condition precedent to disciplinary action. Upon
2 conviction of the crime, the judgment and sentence are presumptive evidence
3 at the ensuing disciplinary hearing of the guilt of the licensee or applicant.
4 Conviction includes all instances in which a plea of no contest is the basis of
5 the conviction;

6 (b) Misrepresented or concealed a material fact in obtaining a license, or in
7 reinstatement thereof;

8 (c) Committed any unfair, false, misleading, or deceptive act or practice;

9 (d) Been incompetent or negligent in the practice of marriage and family therapy;

10 (e) Violated any state statute or administrative regulation governing the practice
11 of marriage and family therapy or any activities undertaken by a marriage and
12 family therapist;

13 (f) Failed to comply with an order issued by the board or an assurance of
14 voluntary compliance;

15 (g) Violated the code of ethics as set forth by the board in administrative
16 regulations; or

17 (h) Violated any applicable provision of any federal or state law, *if in accordance*
18 *with KRS Chapter 335B.*

19 (2) Five (5) years from the date of a revocation, any person whose license or permit has
20 been revoked may petition the board for reinstatement. The board shall investigate
21 the petition and may reinstate the license or permit upon a finding that the
22 individual has complied with any terms prescribed by the board and is again able to
23 competently engage in the practice of marriage and family therapy.

24 (3) If, after an investigation that includes opportunity for the licensee to respond, the
25 board determines that a violation took place but was not of a serious nature, it may
26 issue a written admonishment to the licensee. A copy of the admonishment shall be
27 placed in the permanent file of the licensee. The licensee shall have the right to file

1 a response to the admonishment within thirty (30) days of its receipt and to have the
2 response placed in the permanent licensure file. The licensee may alternatively,
3 within thirty (30) days of the receipt, file a request for hearing with the board. Upon
4 receipt of this request, the board shall set aside the written admonishment and set
5 the matter for hearing under the provisions of KRS Chapter 13B.

6 (4) At any time during the investigative or hearing processes, the board may enter into
7 an agreed order or accept an assurance of voluntary compliance with the licensee
8 which effectively deals with the complaint.

9 (5) The board may reconsider, modify, or reverse its probation, suspensions, or other
10 disciplinary actions.

11 (6) The surrender of a license or permit shall not serve to deprive the board of
12 jurisdiction to proceed with disciplinary actions pursuant to this chapter.

13 ➔Section 84. KRS 335.540 is amended to read as follows:

14 (1) The board may refuse to issue a credential, or may suspend, revoke, impose
15 probationary conditions upon, impose an administrative fine, or issue a written
16 reprimand or admonishment if the credential holder has:

17 (a) Committed a dishonest or corrupt act, *if in accordance with KRS Chapter*
18 *335B*. If the act is a crime, conviction in a criminal proceeding shall not be a
19 condition precedent to disciplinary action. Upon conviction of the crime, the
20 judgment and sentence are presumptive evidence at the ensuing disciplinary
21 hearing of the guilt of the credential holder or applicant. Conviction includes
22 all instances in which a plea of no contest is the basis of the conviction;

23 (b) Misrepresented or concealed a material fact in obtaining or reinstating a
24 credential;

25 (c) Committed any unfair, false, misleading, or deceptive act or practice;

26 (d) Been incompetent or negligent in the activities he has undertaken within his or
27 her practice;

- 1 (e) Violated any state statute or administrative regulation promulgated pursuant to
2 KRS 335.500 to 335.599;
- 3 (f) Failed to comply with an order issued by the board or an assurance of
4 voluntary compliance;
- 5 (g) Violated the code of ethics; or
- 6 (h) Violated any applicable provisions of federal or state law, *if in accordance*
7 *with KRS Chapter 335B.*
- 8 (2) Any person whose credential has been revoked for at least five (5) or more years
9 may petition the board for reinstatement. The board shall investigate the petition
10 and may reinstate the credential upon a finding that the individual has complied
11 with the terms prescribed by the board and is able to competently engage in
12 professional practice.
- 13 (3) The board may issue a written admonishment to the credential holder if the board
14 determines based on the evidence, that a violation that is not serious has occurred. A
15 copy of the written admonishment shall be placed in the permanent file of the
16 credential holder. The credential holder may respond in writing to the
17 admonishment within thirty (30) days of its receipt and may have it placed in his
18 permanent credential file. Alternatively, the credential holder may file a request for
19 a hearing with the board within thirty (30) days of the admonishment. Upon receipt
20 of this request, the board shall set aside the written admonishment and set the matter
21 for hearing pursuant to the provisions of KRS Chapter 13B.
- 22 (4) At any time during the investigative or hearing processes, the board may enter into
23 an agreed order or accept an assurance of voluntary compliance with the credential
24 holder.
- 25 (5) The board may consider, modify, or reverse its probation, suspensions, or other
26 disciplinary action.
- 27 ➔Section 85. KRS 532.100 is amended to read as follows:

- 1 (1) When an indeterminate term of imprisonment is imposed, the court shall commit
2 the defendant to the custody of the Department of Corrections for the term of his
3 sentence and until released in accordance with the law.
- 4 (2) When a definite term of imprisonment is imposed, the court shall commit the
5 defendant to the county or city correctional institution or to a regional correctional
6 institution for the term of his sentence and until released in accordance with the law.
- 7 (3) When a sentence of death is imposed, the court shall commit the defendant to the
8 custody of the Department of Corrections with directions that the sentence be
9 carried out according to law.
- 10 (4) (a) The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is
11 sentenced to an indeterminate term of imprisonment of five (5) years or less,
12 he shall serve that term in a county jail in a county in which the fiscal court
13 has agreed to house state prisoners; except that, when an indeterminate
14 sentence of two (2) years or more is imposed on a Class D felon convicted of
15 a sexual offense enumerated in KRS 197.410(1), or a crime under KRS
16 17.510(11) or (12), the sentence shall be served in a state institution. Counties
17 choosing not to comply with the provisions of this paragraph shall be granted
18 a waiver by the commissioner of the Department of Corrections.
- 19 (b) The provisions of KRS 500.080(5) notwithstanding, a Class D felon who
20 received a sentence of more than five (5) years for nonviolent, nonsexual
21 offenses, but who currently has less than five (5) years remaining to be served,
22 may serve the remainder of his or her term in a county jail in a county in
23 which the fiscal court has agreed to house state prisoners.
- 24 (c) 1. The provisions of KRS 500.080(5) notwithstanding, and except as
25 provided in subparagraph 2. of this paragraph, a Class C or D felon with
26 a sentence of more than five (5) years who is classified by the
27 Department of Corrections as community custody shall serve that term

- 1 in a county jail in a county in which the fiscal court has agreed to house
2 state prisoners if:
- 3 a. Beds are available in the county jail;
 - 4 b. State facilities are at capacity; and
 - 5 c. Halfway house beds are being utilized at the contract level as of
6 July 15, 2000.
- 7 2. When an indeterminate sentence of two (2) years or more is imposed on
8 a felon convicted of a sex crime, as defined in KRS 17.500, or any
9 similar offense in another jurisdiction, the sentence shall be served in a
10 state institution.
- 11 3. Counties choosing not to comply with the provisions of this paragraph
12 shall be granted a waiver by the commissioner of the Department of
13 Corrections.
- 14 (d) Any jail that houses state inmates under this subsection shall offer programs
15 as recommended by the Jail Standards Commission. The Department of
16 Corrections shall adopt the recommendations of the Jail Standards
17 Commission and promulgate administrative regulations establishing required
18 programs for a jail that houses state inmates under this subsection.
- 19 (5) The jailer of a county in which a Class D felon or a Class C felon is incarcerated
20 may request the commissioner of the Department of Corrections to incarcerate the
21 felon in a state corrections institution if the jailer has reasons to believe that the
22 felon is an escape risk, a danger to himself or other inmates, an extreme security
23 risk, or needs protective custody beyond that which can be provided in a county jail.
24 The commissioner of the Department of Corrections shall evaluate the request and
25 transfer the inmate if he deems it necessary. If the commissioner refuses to accept
26 the felon inmate, and the Circuit Judge of the county that has jurisdiction of the
27 offense charged is of the opinion that the felon cannot be safely kept in a county

1 jail, the Circuit Judge, with the consent of the Governor, may order the felon
2 transferred to the custody of the Department of Corrections.

3 (6) Class D felons and Class C felons serving their time in a local jail shall be
4 considered state prisoners, and the Department of Corrections shall pay the jail in
5 which the prisoner is incarcerated a per diem amount determined according to KRS
6 431.215(2). For other state prisoners and parole violator prisoners, the per diem
7 payments shall also begin on the date prescribed in KRS 431.215(2).

8 (7) State prisoners, excluding the Class D felons and Class C felons qualifying to serve
9 time in county jails, shall be transferred to the state institution within forty-five (45)
10 days of final sentencing.

11 **(8) (a) Class D felons eligible for placement in a local jail may be permitted by the**
12 **warden or jailer to participate in any approved community work program or**
13 **other form of work release with the approval of the commissioner of the**
14 **Department of Corrections.**

15 **(b) The authority to release an inmate to work under this subsection may be**
16 **exercised at any time during the inmate's sentence, including the period**
17 **when the court has concurrent authority to permit work release pursuant to**
18 **KRS 439.265.**

19 **(c) The warden or jailer may require an inmate participating in the program to**
20 **pay a fee to reimburse the warden or jailer for the cost of operating the**
21 **community work program or any other work release program. The fee shall**
22 **not exceed the lesser of fifty-five dollars (\$55) per week or twenty percent**
23 **(20%) of the prisoner's weekly net pay earned from the community work**
24 **program or work release participation. In addition, the inmate may be**
25 **required to pay for any drug testing performed on the inmate as a**
26 **requirement of the community work program or work release participation.**

27 **(d) This subsection shall not apply to an inmate who:**

- 1 1. Is not eligible for work release pursuant to KRS 197.140;
- 2 2. Has a maximum or close security classification as defined by
- 3 administrative regulations promulgated by the Department of
- 4 Corrections;
- 5 3. Is subject to the provisions of KRS 532.043; or
- 6 4. Is in a reentry center as defined in Section 87 of this Act.

7 ➔SECTION 86. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO
8 READ AS FOLLOWS:

9 (1) As used in this section:

10 (a) "County jail" means all detention and penal facilities of a county, charter
11 county, urban-county government, unified local government, or
12 consolidated local government for adult offenders, together with all its
13 rehabilitative facilities for adult offenders, including facilities operated by
14 private agencies under contract with the county, charter county, urban-
15 county government, unified local government, or consolidated local
16 government;

17 (b) "Day reporting program" or "program" means a community-based,
18 structured sentencing program operated by a county jail that combines
19 enhanced community supervision with resources and services tailored to
20 meet identified offender needs; and

21 (c) "Eligible defendant" means an individual convicted of a misdemeanor or a
22 Class D felony who is eligible to serve all or part of his or her sentence in a
23 county jail or who is found in contempt of court and who meets the intake
24 criteria established by the day reporting program to which the person would
25 be sentenced.

26 (2) A court may sentence an eligible defendant as part of an alternative sentencing
27 plan or as a sentence for contempt to a local day reporting program for a period

1 of time not longer than the defendant's maximum potential period of
2 incarceration if:

3 (a) The program utilizes whenever practicable a validated screening tool based
4 on criminogenic risk factors to identify an individual's likelihood of
5 reoffending and his or her treatment needs in determining program
6 eligibility;

7 (b) The program has agreed to accept the defendant;

8 (c) The defendant agrees in writing to comply with the program's written terms
9 and conditions; and

10 (d) The defendant, if additionally required by the court or the program to do so,
11 agrees to be subject to the conditions of electronic monitoring pursuant to
12 KRS 532.210 to 532.250.

13 (3) In sentencing a defendant to a day reporting program under this section, a court
14 may authorize a temporary release from the program for any of the purposes
15 allowed for the release of a jail prisoner under KRS 439.179.

16 (4) The day reporting program shall provide a weekly report of all violations of the
17 program's terms and conditions for each program participant to the sentencing
18 court, to the prosecutor, and to the defendant in the case. If specified in the
19 program's written terms and conditions, the program may alter the terms and
20 conditions of a person's participation in the program in response to that person's
21 minor breach of the program's terms and conditions.

22 (5) A court may alter or revoke a defendant's participation in a day reporting
23 program if written notice of the grounds for alteration or revocation is given to
24 the defendant and a hearing is conducted at which the defendant is represented
25 by counsel. Following the hearing, if the court finds that the defendant has
26 without good cause failed to participate in the program or to comply with its
27 terms and conditions, the court may impose any additional sentence or other

1 sanction specified in the original sentencing order.

2 (6) The Administrative Office of the Courts shall prescribe forms to be utilized in the
3 implementation of this section.

4 (7) A day reporting program may be referred to as a day reporting center or other
5 appropriate nomenclature in its day-to-day operations.

6 ➔Section 87. KRS 441.005 is amended to read as follows:

7 As used in this chapter, unless the context otherwise requires:

8 (1) "Jail" means county jails and correctional or detention facilities, including
9 correctional facilities defined in KRS 67B.020 and juvenile detention facilities,
10 operated by and under the supervision of any political subdivision.

11 (2) "Holdover" means any jail housing prisoners for a maximum period of ninety-six
12 (96) continuous hours and excluding times when a prisoner is released for a
13 minimum of seven (7) hours for the purpose of working at his employment,
14 attending an educational institution, or conducting other business pursuant to a
15 court order, or when a prisoner is released for in court proceedings.

16 (3) "Prisoner" means any person confined in jail pursuant to any code, ordinance, law,
17 or statute of any unit of government and who is:

18 (a) Charged with or convicted of an offense; or

19 (b) Held for extradition or as a material witness; or

20 (c) Confined for any other reason.

21 (4) "Unit of government" means that unit of government including the United States
22 government whose law, statute, ordinance, or code a prisoner is charged with
23 violating. If a person is imprisoned for contempt of court, the state shall be deemed
24 the responsible unit of government.

25 (5) "Department" means the Department of Corrections.

26 (6) "Jail personnel" means deputy jailers, matrons, cooks, and other food service
27 personnel, and other jail employees involved in the supervision, custody, care, or

1 treatment of prisoners in jails but does not include maintenance or clerical
2 personnel.

3 (7) "Regional jail" means a jail that may house prisoners for up to one (1) year and
4 which is:

5 (a) Owned and operated by one (1) county and, on a regular basis, holds prisoners
6 for another county or for the state; or

7 (b) Owned and operated by two (2) or more counties through a regional jail
8 authority as provided in KRS 441.800.

9 (8) "Commissioner" means the Commissioner of the Department of Corrections.

10 **(9) "Reentry center" means a supervised community residential facility operated by a**
11 **local correctional facility, county jail, or regional jail as detailed in Section 88 of**
12 **this Act.**

13 ➔SECTION 88. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO
14 READ AS FOLLOWS:

15 **(1) A local correctional facility, county jail, or regional jail may, with the approval of**
16 **the Department of Corrections, operate a reentry center. Reentry centers**
17 **established pursuant to this section shall:**

18 **(a) Employ a program coordinator responsible for oversight of the reentry**
19 **center;**

20 **(b) Offer residents at least one (1) vocational training program approved by the**
21 **Department of Corrections;**

22 **(c) Offer residents at least two (2) other evidence-based programs approved by**
23 **the Department of Corrections;**

24 **(d) Review each participant's case with a certified alcohol and drug counselor**
25 **as defined in KRS 309.080;**

26 **(e) Require residents to participate in family outreach and community**
27 **involvement programs;**

1 (f) Require residents to seek or maintain employment in the community. The
 2 reentry center shall require ten percent (10%) of the resident's income to be
 3 deposited into a savings account, shall require fifteen percent (15%) of the
 4 resident's income to be directed to payment of restitution if applicable, and
 5 may charge each resident a fee of not more than twenty percent (20%) of
 6 the resident's income; and

7 (g) Report data as required by the Department of Corrections in order to allow
 8 evaluation of the effectiveness of the reentry center.

9 (2) A person is eligible for placement in a reentry center if he or she has less than
 10 twelve (12) months until the expected expiration of his or her sentence and is:

11 (a) A state inmate eligible for placement in a local jail pursuant to Section 85
 12 of this Act;

13 (b) A Class B felon who is classified as low risk by the Department of
 14 Corrections; or

15 (c) A county inmate in the jail operated by the political subdivision which
 16 operates the reentry center.

17 (3) Residents may be assigned to a reentry center by:

18 (a) Administrative classification by the Department of Corrections;

19 (b) Administrative decision of the jailer for inmates of the jail;

20 (c) The court, as an alternative sentence; or

21 (d) The Parole Board, as a condition of parole or as a sanction for violation of
 22 conditions of parole.

23 ➔SECTION 89. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO
 24 READ AS FOLLOWS:

25 (1) The Department of Corrections shall, by administrative regulation, establish
 26 standards for the operation of reentry centers established pursuant to Section 88
 27 of this Act.

1 (2) The Department of Corrections shall utilize data reported by the reentry centers
2 pursuant to Section 88 of this Act to analyze the effectiveness of the reentry
3 centers in reducing recidivism and the engagement of residents in employment
4 and in the community.

5 (3) Placement of inmates in reentry centers by the Department of Corrections or the
6 Parole Board shall prioritize placement in higher-performing centers, as
7 determined by the Department of Corrections.

8 ➔Section 90. KRS 196.031 is amended to read as follows:

9 (1) The cabinet shall employ the personnel and operate and maintain data collection
10 and processing systems necessary to comply with the provisions of this section.

11 (2) The cabinet shall annually on July 1 of each year report to the Governor, the
12 Legislative Research Commission, and the Kentucky State Corrections Commission
13 on:

14 (a) The placement of prisoners within the Commonwealth's correctional system
15 by institution, whether imprisoned in a state prison or other institution,
16 including county jails, on probation, paroled, housed in halfway houses,
17 housed in reentry centers, sentenced to community service or otherwise;

18 (b) Numbers of prisoners by type of offense;

19 (c) Numbers of prisoners by number and type of prior convictions;

20 (d) Numbers of prisoners paroled by type of offense and by length of time served;

21 (e) Numbers of prisoners released through shock probation by type of offense and
22 by length of time served;

23 (f) Numbers of prisoners serving their full sentence by type of offense;

24 (g) The percentage of felony offenders on parole or some form of post-release
25 supervision who are participating or completing treatment consistent with
26 assessment results, in prison and in the community;

27 (h) The percentage of felony offenders whose reassessment results demonstrate

- 1 reductions in criminal risk factors;
- 2 (i) The percentage of programs that demonstrate their effectiveness in reducing
3 recidivism;
- 4 (j) The percentage of felony offenders on parole or some form of post-release
5 supervision, by supervision type, who:
- 6 1. Are employed or in school within thirty (30) days, six (6) months, and
7 one (1) year of the start of supervision;
- 8 2. Have had part-time employment for a minimum of six (6) months, and
9 the percentage of offenders who have had full-time employment for a
10 minimum of six (6) months;
- 11 3. Have housing upon release from incarceration;
- 12 4. Had stable housing for at least six (6) months; and
- 13 5. Are arrested, convicted, or incarcerated within six (6) months, one (1)
14 year, and three (3) years;
- 15 (k) The percentage of admissions to prison by offenders under supervision at the
16 time of admission, including information regarding whether the violations
17 were criminal or technical; and
- 18 (l) Any other data that provides information on state-funded crime reduction and
19 recidivism reduction efforts, including caseload sizes by risk level,
20 participation in treatment and intervention programming, public safety
21 outcomes, and cost effectiveness.
- 22 (3) The cabinet shall annually report to the Governor and to the Legislative Research
23 Commission on:
- 24 (a) Numbers and types of prison beds necessary to meet current population needs
25 and six (6) year projections of those needs;
- 26 (b) Current personnel needs of the cabinet and five (5) year projections of the
27 needs; and

1 (c) A six (6) year projection of needed capital construction, program
2 development, and anticipated requests for appropriations.

3 ➔Section 91. KRS 439.340 is amended to read as follows:

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

20 (2) Before granting the parole of any prisoner, the board shall consider the pertinent
21 information regarding the prisoner, including the results of his or her most recent
22 risk and needs assessment, and shall have him or her appear before it for interview
23 and hearing. The board in its discretion may hold interviews and hearings for
24 prisoners convicted of Class C felonies not included within the definition of
25 "violent offender" in KRS 439.3401 and Class D felonies. The board in its
26 discretion may request the parole board of another state confining prisoners
27 pursuant to KRS 196.610 to interview eligible prisoners and make a parole

1 recommendation to the board. A parole shall be ordered only for the best interest of
2 society and not as an award of clemency, and it shall not be considered a reduction
3 of sentence or pardon. A prisoner shall be placed on parole only when arrangements
4 have been made for his or her proper employment or for his or her maintenance and
5 care, and when the board believes he or she is able and willing to fulfill the
6 obligations of a law abiding citizen. Notwithstanding any statute to the contrary,
7 including KRS 440.330, when a prisoner is otherwise eligible for parole and the
8 board has recommended parole for that prisoner for the reasons set forth in this
9 subsection, the board may grant parole to any prisoner wanted as a fugitive by any
10 other jurisdiction, and the prisoner shall be released to the detainer from that
11 jurisdiction. Such parole shall not constitute a relinquishment of jurisdiction over
12 the prisoner, and the board in all cases expressly reserves the right to return the
13 prisoner to confinement in a correctional institution of the Commonwealth if the
14 prisoner violates the terms of his or her parole.

15 (3) (a) A nonviolent offender convicted of a Class D felony with an aggregate
16 sentence of one (1) to five (5) years who is confined to a state penal institution
17 or county jail shall have his or her case reviewed by the Parole Board after
18 serving fifteen percent (15%) or two (2) months of the original sentence,
19 whichever is longer.

20 (b) Except as provided in this section, the board shall adopt administrative
21 regulations with respect to the eligibility of prisoners for parole, the conduct
22 of parole and parole revocation hearings and all other matters that come
23 before it, or conditions to be imposed upon parolees. Regulations governing
24 the eligibility of prisoners for parole shall be in accordance with
25 professionally accepted ideas of correction and reform and may utilize in part
26 objective, performance-based criteria and risk and needs assessment
27 information; however, nothing herein contained shall preclude the board from

1 utilizing its present regulations in conjunction with other factors involved that
2 would relate to the inmate's needs and the safety of the public.

3 (4) The board shall insure that all sentenced felons who have longer than ninety (90)
4 days to serve in state penal institutions, halfway houses, reentry centers, and county
5 jails are considered for parole not less than sixty (60) days prior to their parole
6 eligibility date, and the Department of Corrections shall provide the necessary
7 assistance and information to the board in order for it to conduct timely parole
8 reviews.

9 (5) In addition to or in conjunction with each hearing conducted under subsection (2) of
10 this section for any prisoner convicted of a Class A, B, or C felony and prior to the
11 granting of a parole to any such prisoner, the parole board shall conduct a hearing of
12 which the following persons shall receive not less than forty-five (45) nor more than
13 ninety (90) days' notice: the Commonwealth's attorney who shall notify the sheriff
14 of every county and the chief of police of every city and county in which the
15 prisoner committed any Class A, B, or C felony for which he or she is imprisoned,
16 and all identified victims of the crimes or the next of kin of any victim who is
17 deceased. Notice to the Commonwealth's attorney shall be by mail, fax, or
18 electronic means at the discretion of the board, and shall be in a manner that ensures
19 receipt at the Commonwealth attorney's business office. Notices received by chiefs
20 of police and sheriffs shall be posted in a conspicuous location where police
21 employed by the department may see it. Notices shall be posted in a manner and at a
22 time that will allow officers to make comment thereon to the Parole Board. Notice
23 to victims or their next of kin shall be made, for prisoners incarcerated prior to July
24 15, 1986, by mail, fax, or electronic means at the discretion of the board, and shall
25 be in a manner that ensures receipt by the Commonwealth's attorney, who shall
26 forward the notice promptly to the victims or their next of kin at their last known
27 address. For prisoners incarcerated on or after July 15, 1986, notice to the victims or

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

9 (6) Persons receiving notice as provided for in subsection (5) of this section may
10 submit comments, in person or in writing, to the board upon all issues relating to the
11 parole of the prisoner. The board shall read and consider all comments prior to
12 making its parole decision, if they are received by the board not less than seven (7)
13 days before the date for the hearing. The board shall retain all comments in the
14 prisoner's permanent Parole Board file, and shall consider them in conjunction with
15 any subsequent parole decisions affecting the prisoner. In addition to officers listed
16 in subsection (5) of this section, the crime victims or the next of kin of any victim
17 who is deceased or who is disabled and cannot attend the hearing or the parent or
18 legal guardian of any victim who is a minor may attend the hearing provided for in
19 subsection (5) of this section and present oral and written comments upon all issues
20 relating to the parole of the prisoner, if they have advised the board, in writing
21 received by the board not less than seven (7) days prior to the date set for the
22 hearing, of their intention to attend the hearing. The board shall receive and
23 consider all comments, shall make a record of them which it shall retain in the
24 prisoner's permanent Parole Board file, and shall consider them in conjunction with
25 any subsequent parole decision affecting the prisoner. Persons appearing before the
26 Parole Board pursuant to this subsection may elect to make their presentations
27 outside of the presence of the prisoner.

- 1 (7) Victims of Class D felonies may submit comments in person or in writing to the
2 board upon all issues relating to the parole of a prisoner.
- 3 (8) Any hearing provided for in subsections (5), (6), and (7) of this section shall be
4 open to the public unless the persons having a right to appear before the board as
5 specified in those subsections request closure of hearing for reasons of personal
6 safety, in which event the hearing shall be closed. The time, date, and location of
7 closed hearings shall not be disclosed to the public.
- 8 (9) Except as specifically set forth in this section, nothing in this section shall be
9 deemed to expand or abridge any existing rights of persons to contact and
10 communicate with the Parole Board or any of its members, agents, or employees.
- 11 (10) The unintentional failure by the Parole Board, sheriff, chief of police, or any of its
12 members, agents, or employees or by a Commonwealth's attorney or any of his or
13 her agents or employees to comply with any of the provisions of subsections (5),
14 (6), and (8) of this section shall not affect the validity of any parole decision or give
15 rise to any right or cause of action by the crime victim, the prisoner, or any other
16 person.
- 17 (11) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be
18 granted parole unless he or she has successfully completed the Sexual Offender
19 Treatment Program.
- 20 (12) Any prisoner who is granted parole after completion of the Sexual Offender
21 Treatment Program shall be required, as a condition of his or her parole, to
22 participate in regular treatment in a mental health program approved or operated by
23 the Department of Corrections.
- 24 (13) When the board grants parole contingent upon completion of a program, the
25 commissioner, or his or her designee, shall determine the most appropriate
26 placement in a program operated by the department or a residential or nonresidential
27 program within the community approved by the department. If the department

1 releases a parolee to a nonresidential program, the department shall release the
2 parolee only if he or she will have appropriate community housing pursuant to KRS
3 439.3408.

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

7 (a) No parole deferment greater than five (5) years shall be ordered unless
8 approved by a majority vote of the full board; and

9 (b) No deferment shall exceed ten (10) years, except for life sentences.

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

11 ➔Section 92. KRS 439.3407 is amended to read as follows:

12 (1) The department may promulgate administrative regulations to implement
13 conditional parole of state inmates incarcerated in state corrections institutions or
14 local correctional facilities or county jails to place those individuals closer to their
15 communities prior to release. A parolee placed on conditional parole shall serve that
16 term in a local correctional facility or county jail or reentry center in a county in
17 which the fiscal court has agreed to house parolees if beds are available in the local
18 correctional facility or county jail or reentry center.

19 (2) The department may authorize parolees on conditional parole to be placed on work
20 release. If a person placed in a county jail on conditional parole under subsection (1)
21 of this section is granted work release, he or she shall pay the work release fees
22 required by law to the jailer. The amount of work release fees paid by a parolee
23 shall be deducted from the amount which the Department of Corrections shall pay
24 for the placement of that parolee.

25 (3) Local correctional facilities or county jails housing parolees under subsection (1) of
26 this section shall have the same rights and obligations as county jails housing felons
27 pursuant to KRS 532.100.

- 1 (4) Administrative regulations promulgated pursuant to subsection (1) of this section
2 relating to eligibility of an individual for conditional parole shall take into
3 consideration, at a minimum, the following information about the individual:
- 4 (a) The offense for which the individual was convicted and his or her
5 rehabilitation efforts while incarcerated;
 - 6 (b) The security classification while incarcerated in the state correctional
7 institution;
 - 8 (c) Conduct while incarcerated in the state correctional institution;
 - 9 (d) Ability to find employment in the community; and
 - 10 (e) The availability of additional applicable education, treatment or intervention,
11 and training for employment in the local correctional facility or county jail, if
12 needed by the individual.

13 ➔Section 93. KRS 439.3408 is amended to read as follows:

14 When considering appropriate housing options for a person considered for parole or a
15 person who is being paroled, the department shall approve any form of acceptable
16 housing, including but not limited to apartments, shelters for homeless or other persons,
17 county jails or restricted custody facilities that a county approves for parolees, educational
18 institutions with dormitories if the parolee is enrolled or accepted for enrollment at an
19 educational institution, halfway houses, reentry centers, residential treatment or other
20 programs in which the parolee is enrolled or accepted for enrollment, and other forms of
21 transitional housing meeting the requirements of applicable statutes.

22 ➔Section 94. KRS 446.010 is amended to read as follows:

23 As used in the statute laws of this state, unless the context requires otherwise:

- 24 (1) "Action" includes all proceedings in any court of this state;
- 25 (2) "Animal" includes every warm-blooded living creature except a human being;
- 26 (3) "Attorney" means attorney-at-law;
- 27 (4) "Bequeath" and "devise" mean the same thing;

- 1 (5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal
2 estate, or both;
- 3 (6) "Business trust" includes, except when utilized in KRS Chapter 386, a "statutory
4 trust" as organized under KRS Chapter 386A;
- 5 (7) "Case plan" means an individualized accountability and behavior change strategy
6 for supervised individuals that:
- 7 (a) Targets and prioritizes the specific criminal risk factors of the individual
8 based upon his or her assessment results;
- 9 (b) Matches the type and intensity of supervision and treatment conditions to the
10 individual's level of risk, criminal risk factors, and individual characteristics,
11 such as gender, culture, motivational stage, developmental stage, and learning
12 style;
- 13 (c) Establishes a timetable for achieving specific behavioral goals, including a
14 schedule for payment of victim restitution, child support, and other financial
15 obligations; and
- 16 (d) Specifies positive and negative actions that will be taken in response to the
17 supervised individual's behaviors;
- 18 (8) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;
- 19 (9) "Certified mail" means any method of governmental, commercial, or electronic
20 delivery that allows a document or package to have proof of:
- 21 (a) Sending the document or package;
- 22 (b) The date the document or package was delivered or delivery was attempted;
23 and
- 24 (c) The signature of the receipt of the document or package;
- 25 (10) "Company" may extend and be applied to any corporation, company, person,
26 partnership, joint stock company, or association;
- 27 (11) "Corporation" may extend and be applied to any corporation, company, partnership,

- 1 joint stock company, or association;
- 2 (12) "Criminal risk factors" are characteristics and behaviors that, when addressed or
3 changed, affect a person's risk for committing crimes. The characteristics may
4 include but are not limited to the following risk and criminogenic need factors:
5 antisocial behavior; antisocial personality; criminal thinking; criminal associates;
6 dysfunctional family; low levels of employment or education; poor use of leisure
7 and recreation; and substance abuse;
- 8 (13) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable
9 physical pain, suffering, or death is caused or permitted;
- 10 (14) "Directors," when applied to corporations, includes managers or trustees;
- 11 (15) "Domestic," when applied to a corporation, partnership, business trust, or limited
12 liability company, means all those incorporated or formed by authority of this state;
- 13 (16) "Domestic animal" means any animal converted to domestic habitat;
- 14 (17) "Evidence-based practices" means policies, procedures, programs, and practices
15 proven by scientific research to reliably produce reductions in recidivism when
16 implemented competently;
- 17 (18) "Federal" refers to the United States;
- 18 (19) "Foreign," when applied to a corporation, partnership, limited partnership, business
19 trust, statutory trust, or limited liability company, includes all those incorporated or
20 formed by authority of any other state;
- 21 (20) "Generally accepted accounting principles" are those uniform minimum standards
22 of and guidelines to financial accounting and reporting as adopted by the National
23 Council on Governmental Accounting, under the auspices of the Municipal Finance
24 Officers Association and by the Financial Accounting Standards Board, under the
25 auspices of the American Institute of Certified Public Accountants;
- 26 (21) "Graduated sanction" means any of a wide range of accountability measures and
27 programs for supervised individuals, including but not limited to electronic

1 monitoring; drug and alcohol testing or monitoring; day or evening reporting
2 centers; restitution centers; reentry centers; disallowance of future earned
3 compliance credits; rehabilitative interventions such as substance abuse or mental
4 health treatment; reporting requirements to probation and parole officers;
5 community service or work crews; secure or unsecure residential treatment facilities
6 or halfway houses; and short-term or intermittent incarceration;

7 (22) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals,"
8 means any nonprofit corporation, organized under the laws of this state and having
9 as its primary purpose the prevention of cruelty to animals;

10 (23) "Issue," as applied to the descent of real estate, includes all the lawful lineal
11 descendants of the ancestors;

12 (24) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights
13 thereto and interest therein, other than a chattel interest;

14 (25) "Legatee" and "devisee" convey the same idea;

15 (26) "May" is permissive;

16 (27) "Month" means calendar month;

17 (28) "Oath" includes "affirmation" in all cases in which an affirmation may be
18 substituted for an oath;

19 (29) "Owner" when applied to any animal, means any person having a property interest
20 in such animal;

21 (30) "Partnership" includes both general and limited partnerships;

22 (31) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and
23 urban-county government correctional officers, marshals, policemen, and other
24 persons with similar authority to make arrests;

25 (32) "Penitentiary" includes all of the state penal institutions except the houses of
26 reform;

27 (33) "Person" may extend and be applied to bodies-politic and corporate, societies,

- 1 communities, the public generally, individuals, partnerships, joint stock companies,
2 and limited liability companies;
- 3 (34) "Personal estate" includes chattels, real and other estate that passes to the personal
4 representative upon the owner dying intestate;
- 5 (35) "Pretrial risk assessment" means an objective, research-based, validated assessment
6 tool that measures a defendant's risk of flight and risk of anticipated criminal
7 conduct while on pretrial release pending adjudication;
- 8 (36) "Registered mail" means any governmental, commercial, or electronic method of
9 delivery that allows a document or package to have:
- 10 (a) Its chain of custody recorded in a register to enable its location to be tracked;
11 (b) Insurance available to cover its loss; and
12 (c) The signature of the recipient of the document or package available to the
13 sender;
- 14 (37) "Regular election" means the election in even-numbered years at which members of
15 Congress are elected and the election in odd-numbered years at which state officers
16 are elected;
- 17 (38) "Risk and needs assessment" or "validated risk and needs assessment" means an
18 actuarial tool scientifically proven to determine a person's risk to reoffend and
19 criminal risk factors, that when properly addressed, can reduce that person's
20 likelihood of committing future criminal behavior;
- 21 (39) "Shall" is mandatory;
- 22 (40) "State" when applied to a part of the United States, includes territories, outlying
23 possessions, and the District of Columbia; "any other state" includes any state,
24 territory, outlying possession, the District of Columbia, and any foreign government
25 or country;
- 26 (41) "State funds" or "public funds" means sums actually received in cash or negotiable
27 instruments from all sources unless otherwise described by any state agency, state-

1 owned corporation, university, department, cabinet, fiduciary for the benefit of any
2 form of state organization, authority, board, bureau, interstate compact,
3 commission, committee, conference, council, office, or any other form of
4 organization whether or not the money has ever been paid into the Treasury and
5 whether or not the money is still in the Treasury if the money is controlled by any
6 form of state organization, except for those funds the management of which is to be
7 reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605,
8 and 42.615;

9 (42) "Supervised individual" means an individual placed on probation by a court or
10 serving a period of parole or post-release supervision from prison or jail;

11 (43) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted
12 for an oath;

13 (44) "Treatment" when used in a criminal justice context, means targeted interventions
14 that focus on criminal risk factors in order to reduce the likelihood of criminal
15 behavior. Treatment options may include but shall not be limited to community-
16 based programs that are consistent with evidence-based practices; cognitive-
17 behavioral programs; faith-based programs; inpatient and outpatient substance
18 abuse or mental health programs; and other available prevention and intervention
19 programs that have been scientifically proven to produce reductions in recidivism
20 when implemented competently. "Treatment" does not include medical services;

21 (45) "United States" includes territories, outlying possessions, and the District of
22 Columbia;

23 (46) "Vacancy in office," or any equivalent phrase, means such as exists when there is an
24 unexpired part of a term of office without a lawful incumbent therein, or when the
25 person elected or appointed to an office fails to qualify according to law, or when
26 there has been no election to fill the office at the time appointed by law; it applies
27 whether the vacancy is occasioned by death, resignation, removal from the state,

- 1 county or district, or otherwise;
- 2 (47) "Violate" includes failure to comply with;
- 3 (48) "Will" includes codicils; "last will" means last will and testament;
- 4 (49) "Year" means calendar year;
- 5 (50) "City" includes town;
- 6 (51) Appropriation-related terms are defined as follows:
- 7 (a) "Appropriation" means an authorization by the General Assembly to expend,
- 8 from public funds, a sum of money not in excess of the sum specified, for the
- 9 purposes specified in the authorization and under the procedure prescribed in
- 10 KRS Chapter 48;
- 11 (b) "Appropriation provision" means a section of any enactment by the General
- 12 Assembly which is not provided for by KRS Chapter 48 and which authorizes
- 13 the expenditure of public funds other than by a general appropriation bill;
- 14 (c) "General appropriation bill" means an enactment by the General Assembly
- 15 that authorizes the expenditure of public funds in a branch budget bill as
- 16 provided for in KRS Chapter 48;
- 17 (52) "Mediation" means a nonadversarial process in which a neutral third party
- 18 encourages and helps disputing parties reach a mutually acceptable agreement.
- 19 Recommendations by mediators are not binding on the parties unless the parties
- 20 enter into a settlement agreement incorporating the recommendations;
- 21 (53) "Biennium" means the two (2) year period commencing on July 1 in each even-
- 22 numbered year and ending on June 30 in the ensuing even-numbered year;
- 23 (54) "Branch budget bill" or "branch budget" means an enactment by the General
- 24 Assembly which provides appropriations and establishes fiscal policies and
- 25 conditions for the biennial financial plan for the judicial branch, the legislative
- 26 branch, and the executive branch, which shall include a separate budget bill for the
- 27 Transportation Cabinet;

1 (55) "AVIS" means the automated vehicle information system established and
2 maintained by the Transportation Cabinet to collect titling and registration
3 information on vehicles and boats and information on holders of motor vehicle
4 operator's licenses and personal identification cards; and

5 (56) "Cooperative," except in KRS Chapter 272, includes a limited cooperative
6 association.

7 ➔Section 95. KRS 532.262 is amended to read as follows:

8 When considering appropriate housing for a prisoner who is considered for or who is
9 granted conditional release pursuant to KRS 532.260, the Department of Corrections shall
10 approve any form of acceptable housing, including but not limited to apartments, shelters
11 for the homeless or other persons, county jails or restricted custody facilities that a county
12 approves for persons granted conditional release, educational institutions with dormitories
13 if the releasee is enrolled or accepted for enrollment at an educational institution, halfway
14 houses, reentry centers, residential treatment or other programs in which the releasee is
15 enrolled or accepted for enrollment, and other forms of transitional housing meeting the
16 requirements of applicable statutes.

17 ➔Section 96. KRS 533.010 is amended to read as follows:

18 (1) Any person who has been convicted of a crime and who has not been sentenced to
19 death may be sentenced to probation, probation with an alternative sentencing plan,
20 or conditional discharge as provided in this chapter.

21 (2) Before imposition of a sentence of imprisonment, the court shall consider probation,
22 probation with an alternative sentencing plan, or conditional discharge. Unless the
23 defendant is a violent felon as defined in KRS 439.3401 or a statute prohibits
24 probation, shock probation, or conditional discharge, after due consideration of the
25 defendant's risk and needs assessment, nature and circumstances of the crime, and
26 the history, character, and condition of the defendant, probation or conditional
27 discharge shall be granted, unless the court is of the opinion that imprisonment is

1 necessary for protection of the public because:

2 (a) There is substantial risk that during a period of probation or conditional
3 discharge the defendant will commit another crime;

4 (b) The defendant is in need of correctional treatment that can be provided most
5 effectively by his commitment to a correctional institution; or

6 (c) A disposition under this chapter will unduly depreciate the seriousness of the
7 defendant's crime.

8 (3) In the event the court determines that probation is not appropriate after due
9 consideration of the defendant's risk and needs assessment, nature and
10 circumstances of the crime, and the history, character, and condition of the
11 defendant, probation with an alternative sentencing plan shall be granted unless the
12 court is of the opinion that imprisonment is necessary for the protection of the
13 public because:

14 (a) There is a likelihood that during a period of probation with an alternative
15 sentencing plan or conditional discharge the defendant will commit a Class D
16 or Class C felony or a substantial risk that the defendant will commit a Class
17 B or Class A felony;

18 (b) The defendant is in need of correctional treatment that can be provided most
19 effectively by commitment to a correctional institution; or

20 (c) A disposition under this chapter will unduly depreciate the seriousness of the
21 defendant's crime.

22 (4) The court shall not determine that there is a likelihood that the defendant will
23 commit a Class C or Class D felony based upon the defendant's risk and needs
24 assessment and the fact that:

25 (a) The defendant has never been convicted of, pled guilty to, or entered an
26 Alford plea to a felony offense;

27 (b) If convicted of, having pled guilty to, or entered an Alford plea to a felony

- 1 offense, the defendant successfully completed probation more than ten (10)
2 years immediately prior to the date of the commission of the felony for which
3 the defendant is now being sentenced and has had no intervening convictions,
4 pleas of guilty, or Alford pleas to any criminal offense during that period; or
- 5 (c) The defendant has been released from incarceration for the commission of a
6 felony offense more than ten (10) years immediately prior to the date of the
7 commission of the felony for which the defendant is now being sentenced and
8 has had no intervening convictions, pleas of guilty, or Alford pleas to any
9 criminal offense during that period.
- 10 (5) In making a determination under subsection (4) of this section, the court may
11 determine that the greater weight of the evidence indicates that there is a likelihood
12 that the defendant will commit a Class C or Class D felony.
- 13 (6) Upon initial sentencing of a defendant or upon modification or revocation of
14 probation, when the court deems it in the best interest of the public and the
15 defendant, the court may order probation with the defendant to serve one (1) of the
16 following alternative sentences:
- 17 (a) To a halfway house for no more than twelve (12) months;
- 18 (b) To home incarceration with or without work release for no more than twelve
19 (12) months;
- 20 (c) To jail for a period not to exceed twelve (12) months with or without work
21 release, community service and other programs as required by the court;
- 22 (d) To a residential treatment program for the abuse of alcohol or controlled
23 substances;~~{or}~~
- 24 (e) **To a reentry center for no more than twelve (12) months; or**
- 25 **(f)** To any other specified counseling program, rehabilitation or treatment
26 program, or facility.
- 27 (7) If during the term of the alternative sentence the defendant fails to adhere to and

1 complete the conditions of the alternative sentence, the court may modify the terms
2 of the alternative sentence or may modify or revoke probation and alternative
3 sentence and commit the defendant to an institution.

4 (8) In addition to those conditions that the court may impose, the conditions of
5 alternative sentence shall include the following and, if the court determines that the
6 defendant cannot comply with them, then they shall not be made available:

7 (a) A defendant sentenced to a halfway house shall:

- 8 1. Be working or pursuing his or her education or be enrolled in a full-time
9 treatment program;
- 10 2. Pay restitution during the term of probation; and
- 11 3. Have no contact with the victim of the defendant's crime;

12 (b) A defendant sentenced to home incarceration shall:

- 13 1. Be employed by another person or self-employed at the time of
14 sentencing to home incarceration and continue the employment
15 throughout the period of home incarceration, unless the court determines
16 that there is a compelling reason to allow home incarceration while the
17 defendant is unemployed;
- 18 2. Pay restitution during the term of home incarceration;
- 19 3. Enter a treatment program, if appropriate;
- 20 4. Pay all or some portion of the cost of home incarceration as determined
21 by the court;
- 22 5. Comply with other conditions as specified; and
- 23 6. Have no contact with the victim of the defendant's crime;

24 (c) A defendant sentenced to jail with community service shall:

- 25 1. Pay restitution during all or some part of the defendant's term of
26 probation; and
- 27 2. Have no contact with the victim of the defendant's crime; ~~or~~

1 (d) A defendant sentenced to a residential treatment program for drug and alcohol
2 abuse shall:

- 3 1. Undergo mandatory drug screening during term of probation;
- 4 2. Be subject to active, supervised probation for a term of five (5) years;
- 5 3. Undergo aftercare as required by the treatment program;
- 6 4. Pay restitution during the term of probation; and
- 7 5. Have no contact with the victim of the defendant's crime; or

8 **(e) A defendant sentenced to a reentry center shall:**

- 9 **1. Be employed in the community or working in a vocational program at**
10 **the reentry center;**
- 11 **2. Be enrolled in a treatment program;**
- 12 **3. Pay restitution, fees, and fines during the term of probation; and**
13 **4. Comply with other conditions as specified.**

14 (9) When the court deems it in the best interest of the defendant and the public, the
15 court may order the person to work at community service related projects under the
16 terms and conditions specified in KRS 533.070. Work at community service related
17 projects shall be considered as a form of conditional discharge.

18 (10) Probation with alternative sentence shall not be available as set out in KRS 532.045
19 and 533.060, except as provided in KRS 533.030(6).

20 (11) The court may utilize a community corrections program authorized or funded under
21 KRS Chapter 196 to provide services to any person released under this section.

22 (12) When the court deems it in the best interest of the defendant and the public, the
23 court may order the defendant to placement for probation monitoring by a private
24 agency. The private agency shall report to the court on the defendant's compliance
25 with his or her terms of probation or conditional discharge. The defendant shall be
26 responsible for any reasonable charges which the private agency charges.

27 (13) The jailer in each county incarcerating Class C or D felons may deny work release

1 privileges to any defendant for violating standards of discipline or other jail
2 regulations. The jailer shall report the action taken and the details of the violation
3 on which the action was based to the court of jurisdiction within five (5) days of the
4 violation.

5 (14) The Department of Corrections shall, by administrative regulation, develop written
6 criteria for work release privileges granted under this section.

7 (15) Reimbursement of incarceration costs shall be paid directly to the jailer in the
8 amount specified by written order of the court. Incarceration costs owed to the
9 Department of Corrections shall be paid through the circuit clerk.

10 (16) The court shall enter into the record written findings of fact and conclusions of law
11 when considering implementation of any sentence under this section.

12 ➔Section 97. KRS 15.280 is amended to read as follows:

13 (1) A Criminal Justice Statistical Analysis Center is hereby created as part of the
14 Kentucky Justice and Public Safety Cabinet.

15 (2) The Criminal Justice Statistical Analysis Center shall provide its reports and
16 recommendations to the Governor and the General Assembly through the secretary
17 of the Justice and Public Safety Cabinet~~[Kentucky Criminal Justice Council]~~.

18 (3) The Criminal Justice Statistical Analysis Center shall:

19 (a) Improve the quality and usefulness of criminal justice statistics and research
20 results that are disseminated to citizens, public agencies, and private agencies
21 in Kentucky through the collection, analysis, assimilation, and analysis of
22 research and statistical data from within the cabinet, from other executive,
23 judicial, and legislative agencies, and from private sources;

24 (b) Publish research results and statistical data that are requested by criminal
25 justice agencies;

26 (c) Improve the relationship between citizens and criminal justice agencies of
27 Kentucky by conducting citizen surveys of the needs, attitudes, and behavior

1 relating to crime and justice; and

2 (d) Strengthen the relationship between Kentucky criminal justice agencies and
3 the Bureau of Justice Statistics, United States Department of Justice, by:

4 1. Providing justice statistics to the Bureau of Justice Statistics as required;
5 and

6 2. Serving as a clearinghouse for Bureau of Justice Statistics materials.

7 (4) The Kentucky Justice and Public Safety Cabinet may expend any federal grants or
8 federal funds provided for carrying out the functions and authority as assigned in
9 this section. Further, the Kentucky Justice and Public Safety Cabinet may employ
10 such employees as may be necessary to fulfill the duties, responsibilities, and
11 functions assigned by this section.

12 **(5) Information and record copies that are confidential under state or federal law**
13 **and are provided to the Criminal Justice Statistical Analysis Center shall not**
14 **become the information and records of the center and shall not lose their**
15 **confidentiality by virtue of the center's access to the information and records. The**
16 **original information and records used to generate information and record copies**
17 **provided to the center shall be maintained by the appropriate agency in**
18 **accordance with state and federal law and shall be subject to the Kentucky Open**
19 **Records Act, KRS 61.870 to 61.884. All open records requests shall be made to**
20 **the appropriate agency, not to the Criminal Justice Statistical Analysis Center.**
21 **Information and record copies provided to the Criminal Justice Statistical**
22 **Analysis Center for review shall be exempt from the Kentucky Open Records Act,**
23 **KRS 61.870 to 61.884.**

24 ➔Section 98. KRS 15A.075 is amended to read as follows:

25 (1) The Criminal Justice Council is hereby created within the Justice and Public Safety
26 Cabinet.

27 (2) **The council shall undertake such research and other activities as may be**

1 authorized or directed by:

2 (a) The secretary of the Justice and Public Safety Cabinet; or

3 (b) The General Assembly.

4 **(3)** The membership of the council shall consist of:

5 (a) The secretary of the Justice and Public Safety Cabinet, ex officio~~[who shall~~
6 ~~serve as the chair];~~

7 ~~(b) [The Attorney General or his or her designee;~~

8 ~~(c)—~~The chair of the Judiciary Committee of the House of Representatives,
9 nonvoting ex officio~~[or his or her designee];~~

10 ~~(c)~~~~(d)~~ The chair of the Judiciary Committee of the Senate, nonvoting ex
11 officio~~[or his or her designee];~~

12 ~~(d)~~~~(e)~~ The ~~[executive]~~director of the Administrative Office of the Courts, ex
13 officio~~[or his or her designee];~~

14 (e) The public advocate, ex officio;

15 (f) The president of the Kentucky Association of Criminal Defense Lawyers or
16 his or her designee;

17 (g) The commissioner of the Department for Behavioral Health, Developmental
18 and Intellectual Disabilities, ex officio~~[deputy secretary of the Justice and~~
19 ~~Public Safety Cabinet, who shall serve as the deputy chair];~~

20 ~~(h) [The commissioner of the Department of Kentucky State Police or his or her~~
21 ~~designee;~~

22 ~~(i)—~~The commissioner of the Department of Criminal Justice Training or his or
23 her designee;

24 ~~(j)—~~The commissioner of the Department of Corrections, ex officio~~[or his or her~~
25 ~~designee];~~

26 ~~(i)~~~~(k)~~ The commissioner of the Department of Juvenile Justice, ex officio~~[or~~
27 ~~his or her designee]; and~~

1 ~~(j)~~⁽¹⁾ Six (6) at-large members appointed by the Governor, as follows:
 2 1. One (1) District Judge and one (1) Circuit Judge nominated by the
 3 Chief Justice of the Kentucky Supreme Court;
 4 2. One (1) member representing law enforcement;
 5 3. One (1) member of the County Attorneys' Association;
 6 4. One (1) member of the Commonwealth Attorneys' Association; and
 7 5. One (1) member representing community-based organizations,
 8 whether for-profit or nonprofit, with experience in programs such as
 9 substance abuse prevention and treatment, case management, mental
 10 health, or counseling~~[A representative of the County Attorneys~~
 11 ~~Association;~~

12 ~~(m) The Public Advocate of Kentucky or his or her designee; and~~

13 ~~(n) A representative of the Commonwealth's Attorneys Association].~~

14 ~~(4)~~⁽³⁾ The chairs of the House and Senate Judiciary Committees shall serve as co-
 15 chairs.

16 (5) At-large members shall be appointed by August 1, 2017, and shall serve a term of
 17 two (2) years, and may be reappointed.

18 (6) Each ex officio member, except for legislative members, may designate a proxy by
 19 written notice to the council prior to call of order of each meeting, and the proxy
 20 shall be entitled to participate as a full voting member.

21 ~~(7) The council shall undertake such research and other activities as may be authorized~~
 22 ~~or directed by:~~

23 ~~(a) The secretary of the Justice and Public Safety Cabinet; or~~

24 ~~(b) The General Assembly.~~

25 ~~(4)~~ Each member of the council shall have one (1) vote. Members of the council shall
 26 serve without compensation but shall be reimbursed for their expenses actually and
 27 necessarily incurred in the performance of their duties. The council shall meet at

1 least quarterly. Meetings shall be held at the call of the chair, or upon the written
 2 request of two (2) members to the chair~~[The council shall meet on the call of its~~
 3 ~~chair].~~

4 ~~(8)~~~~(5)~~ A simple majority of the members of the council shall constitute a quorum for
 5 the conduct of business at a meeting.

6 ~~(9)~~~~(6)~~ The council is authorized to establish committees and appoint additional
 7 persons who may not be members of the council, as necessary to effectuate its
 8 purposes.

9 ~~(10)~~~~(7)~~ The council's administrative functions shall be performed by the executive
 10 director of the Office of Legislative and Intergovernmental Services, appointed by
 11 the secretary of the Justice and Public Safety Cabinet and supported by the
 12 administrative, clerical, and other staff as allowed by budgetary limitations and as
 13 needed to fulfill the council's role and mission and to coordinate its activities.

14 ➔SECTION 99. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO
 15 READ AS FOLLOWS:

16 (1) As used in this section:

17 (a) "Cost savings" means the ending balance excluding any necessary
 18 government expenses as identified in an enacted appropriations bill and any
 19 agency transfers that occurred in the same fiscal year from which an
 20 ending balance is realized;

21 (b) "Criminal justice reinvestment fund" means the fund established in Section
 22 100 of this Act; and

23 (c) "Ending balance" means the remaining general fund moneys unexpended
 24 for the fiscal year in which those funds were appropriated by the General
 25 Assembly.

26 (2) Beginning with the close of fiscal year 2017-2018 and each fiscal year thereafter,
 27 the department shall measure and document cost savings based on an ending

1 balance created as a result of this Act. Calculations shall be based on the
2 department's overall general fund appropriation. Measured and documented cost
3 savings shall be reinvested and appropriated as provided in Section 100 of this
4 Act.

5 (3) (a) Notwithstanding KRS 45.229, any cost savings calculated pursuant to
6 subsection (2) of this section shall not lapse but shall be deposited by the
7 department into the criminal justice reinvestment fund.

8 (b) If no cost savings are calculated pursuant to subsection (2) of this section,
9 no funds shall be deposited into the criminal justice reinvestment fund.

10 ➔SECTION 100. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO
11 READ AS FOLLOWS:

12 (1) The criminal justice reinvestment fund is created as a trust fund. The trust fund
13 shall consist of funds deposited pursuant to Section 99 of this Act and shall be
14 appropriated for the purposes set forth in subsection (3) of this section. The
15 department shall administer the fund.

16 (2) Any interest earned on moneys in the fund shall become a part of the fund and
17 shall not lapse.

18 (3) All funds in the criminal justice reinvestment fund shall be appropriated ninety
19 (90) days after the close of the fiscal year as follows:

20 (a) Twenty percent (20%) to the department for expanding and enhancing
21 evidence-based substance use disorder treatment programs for inmates;

22 (b) Twenty percent (20%) to the Office of Drug Control Policy for expanding
23 and enhancing evidence-based substance use disorder treatment programs,
24 including but not limited to treatment for neonatal abstinence syndrome;

25 (c) Twenty percent (20%) to the crime victim's compensation fund established
26 in KRS 346.185;

27 (d) Twenty percent (20%) to the department for reentry services, including but

- 1 not limited to vocational training; and
- 2 (e) Twenty percent (20%) to the community corrections fund established in
- 3 KRS 196.732.
- 4 (4) For programs that receive funding under subsection (3) of this section, the
- 5 moneys appropriated pursuant to this section shall not be used to replace any
- 6 other state or county appropriations that the programs would have received if not
- 7 for the appropriation made pursuant to this section