

1 AN ACT relating to enhanced standards and criteria for substance use disorder
2 treatment and recovery services and programs and declaring an emergency.

3 WHEREAS, substance use disorder destroys and fractures families and individual
4 lives, communities, and futures, and fills court dockets, jails, hospital emergency rooms,
5 neonatal intensive care units, and morgues; and

6 WHEREAS, people with substance use disorder are suffering from a chemically
7 inflicted disease that attacks the brain and tortures the body; and

8 WHEREAS, opioid use disorder increases the person's tolerance to pain killers, and
9 individuals take higher doses of the drug to stave off withdrawal leading to a rapid spiral;
10 and

11 WHEREAS, substance use disorder has reached epidemic levels in Kentucky with
12 more than 6,800 drug-related overdoses reported in 2016; and

13 WHEREAS, the number of drug-related overdose deaths each year in Kentucky has
14 increased by nearly 200 percent since 2006; and

15 WHEREAS, substance use disorder cuts across all demographics and touches
16 everyone; it does not matter where you live, how intelligent you are, or your income; and

17 WHEREAS, no one chooses the life of a person with substance use disorder, but
18 there is hope and recovery; and

19 WHEREAS, substance use disorder is a complex issue, and there needs to be a
20 continuum of care and treatment; and

21 WHEREAS, the use of evidence-based practice is critical to the quality and
22 effectiveness of substance use disorder treatment and recovery services and programs;
23 and

24 WHEREAS, the federal government has declared the opioid crisis a public health
25 emergency;

26 NOW, THEREFORE,

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

1 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) The Cabinet for Health and Family Services shall conduct a comprehensive
4 review of all current state licensure and quality standards that apply to substance
5 use disorder treatment and recovery services and programs that operate within
6 the Commonwealth of Kentucky.

7 (2) Based on the review conducted pursuant to subsection (1) of this section, the
8 cabinet shall develop enhanced licensure and quality standards for substance use
9 disorder treatment and recovery that include but are not limited to residential,
10 outpatient, and medication-assisted treatment (MAT) services. The enhanced
11 standards shall include, at a minimum, the following:

12 (a) A set of comprehensive quality standards and criteria for substance use
13 disorder treatment and recovery services and programs that are based on
14 nationally recognized and evidence-based standards;

15 (b) Standardized, nationally recognized outcome measures for substance use
16 disorder treatment programs and a process for collection and review of
17 results; and

18 (c) Conditions necessary for reimbursement with state funds for the provision
19 of substance use disorder treatment and recovery services and programs.

20 (3) By January 1, 2019, the cabinet shall promulgate administrative regulations
21 necessary for implementing the enhanced licensure and quality standards,
22 including application fees for licenses, not to exceed the direct and actual cost
23 incurred by the cabinet to perform the licensure for substance use disorder
24 treatment and recovery services and programs.

25 (4) The provisions of this section are subject to available funding.

26 ➔Section 2. KRS 196.288 is amended to read as follows:

27 (1) The department shall measure and document cost savings resulting from

- 1 amendments to or creation of statutes in KRS Chapters 27A, 196, 197, 431, 439,
2 532, 533, and 534 contained in 2011 Ky. Acts ch. 2. Measured and documented
3 savings shall be reinvested or distributed as provided in this section.
- 4 (2) The department shall establish a baseline for measurement using the average
5 number of inmates incarcerated at each type of penitentiary as defined in KRS
6 197.010 and at local jails in fiscal year 2010-2011.
- 7 (3) The department shall determine the average cost of:
- 8 (a) Incarceration for each type of penitentiary as defined in KRS 197.010 and for
9 local jails, including health care costs, transportation costs, and other related
10 costs, for one (1) inmate for one (1) year for the immediately preceding fiscal
11 year;
- 12 (b) Providing probation and parole services for one (1) parolee for one (1) year
13 for the immediately preceding fiscal year; and
- 14 (c) Reentry services and peer support as a condition of parole for those with
15 opiate addiction and other substance abuse disorders.
- 16 (4) Beginning with the budget request for the 2012-2014 fiscal biennium, savings shall
17 be estimated from the baseline established in subsection (2) of this section as
18 follows:
- 19 (a) The estimated average reduction of inmates due to mandatory reentry
20 supervision as required by KRS 439.3406 multiplied by the appropriate
21 average cost as determined in subsection (3)(a) of this section;
- 22 (b) The estimated average reduction of inmates due to accelerated parole hearings
23 as required by KRS 439.340 multiplied by the appropriate average cost as
24 determined in subsection (3)(a) of this section;
- 25 (c) The estimated average increase of parolees due to paragraphs (a) and (b) of
26 this subsection multiplied by the average cost as determined in subsection
27 (3)(b) of this section; and

- 1 (d) The estimated average reduction of parolees due to parole credit for good
2 behavior as provided in KRS 439.345 multiplied by the average cost as
3 determined in subsection (3)(b) of this section.
- 4 (5) The following amounts shall be allocated or distributed from the estimated amount
5 of savings that would otherwise remain in the general fund:
- 6 (a) Twenty-five percent (25%) shall be distributed to the local corrections
7 assistance fund established by KRS 441.207;
- 8 (b) Fifty percent (50%) shall be distributed for the following purposes:
- 9 1. To the department to provide or to contract for the provision of
10 substance abuse treatment in county jails, regional jails, or other local
11 detention centers that employ evidence-based practices in behavioral
12 health treatment or medically assisted treatment for nonstate inmates
13 with opiate addiction or other substance abuse disorders;
- 14 2. For KY-ASAP programs operating under KRS Chapter 15A in county
15 jails or in facilities under the supervision of county jails that employ
16 evidence-based behavioral health treatment or medically assisted
17 treatment for inmates with opiate addiction or other substance abuse
18 disorders;
- 19 3. To KY-ASAP to provide supplemental grant funding to community
20 mental health centers for the purpose of offering additional substance
21 abuse treatment resources through programs that employ evidence-based
22 behavioral health treatment or medically assisted treatment;
- 23 4. To KY-ASAP to address neonatal abstinence syndrome by providing
24 supplemental grant funding to community substance abuse treatment
25 providers to offer residential treatment services to pregnant women
26 through programs that employ evidence-based behavioral health
27 treatment or medically assisted treatment;

- 1 5. To provide supplemental funding for traditional KY-ASAP substance
2 abuse programming under KRS Chapter 15A;
- 3 6. To the department for the purchase of FDA-approved medication-
4 assisted treatment products as a component of evidence-based
5 treatment for inmates with opioid dependence, opioid use disorder, or
6 other substance abuse disorders, for use in substance abuse treatment
7 programs operated or supervised by the department. In purchasing
8 such FDA-approved products, the department shall consider products
9 and treatments that may minimize the risk of diversion~~[To the~~
10 department for the purchase of an FDA approved extended release
11 treatment for the prevention of relapse to opiate dependence with a
12 minimum of fourteen (14) days' effectiveness with an opioid antagonist
13 function for use as a component of evidence based medically assisted
14 treatment for inmates with opiate addiction or substance abuse disorders
15 participating in a substance abuse treatment program operated or
16 supervised by the department];
- 17 7. To the Department of Public Advocacy to provide supplemental funding
18 to the Social Worker Program for the purpose of creating additional
19 social worker positions to develop individualized alternative sentencing
20 plans; and
- 21 8. To the Prosecutors Advisory Council to enhance the use of rocket
22 docket prosecutions in controlled substance cases; and
- 23 (c) In enacting the budget for the department and the judicial branch, beginning in
24 the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the
25 General Assembly shall:
- 26 1. Determine the estimated amount necessary for reinvestment in:
- 27 a. Expanded treatment programs and expanded probation and parole

1 services provided by or through the department; and

2 b. Additional pretrial services and drug court case specialists
3 provided by or through the Administrative Office of the Courts;
4 and

5 2. Shall allocate and appropriate sufficient amounts to fully fund these
6 reinvestment programs.

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

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

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

19 ➔Section 3. The following KRS sections are repealed:

20 222.037 Pilot projects for services to prevent smoking and substance abuse during
21 pregnancy -- Funding.

22 222.212 Continuing effectiveness of administrative regulations in existence on July 15,
23 1994.

24 ➔Section 4. Whereas substance use disorder is a pervasive and growing problem in
25 the Commonwealth of Kentucky, and a delay in the implementation of this Act would
26 severely hinder the growth in the number of quality and effective substance use disorder
27 treatment and recovery services and programs available to Kentuckians in need, an

- 1 emergency is declared to exist, and this Act takes effect upon its passage and approval by the
- 2 Governor or upon its otherwise becoming law.