

1 AN ACT relating to probation and parole supervision.

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

3 ➔Section 1. KRS 439.250 is amended to read as follows:

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

- 5 (1) "Secretary" means the secretary of the Justice and Public Safety Cabinet;
- 6 (2) "Commissioner" means the commissioner of the Department of Corrections;
- 7 (3) "Department" means the Department of Corrections;
- 8 (4) "Deputy commissioner" means the deputy commissioner of the Office of Adult  
9 Institutions or the deputy commissioner of the Office of Community Services and  
10 Facilities of the Department of Corrections;
- 11 (5) "Board" means the Parole Board created by KRS 439.320;
- 12 (6) "Community supervision" means:
- 13 (a) The placement of a defendant under supervision with conditions imposed by a  
14 court for a specified period during which:
- 15 1. Criminal proceedings are deferred without an adjudication of guilt; or
- 16 2. A sentence of imprisonment or confinement, imprisonment and fine, or  
17 confinement and fine, is probated and the imposition of sentence is  
18 suspended in whole or in part; or
- 19 (b) The placement of an individual under supervision after release from prison or  
20 jail, with conditions imposed by the board for a specified period;
- 21 (7) "Parole compliance credit" means a credit on a paroled individual's sentence for  
22 program credit, work-for-time credit, educational accomplishment, or meritorious  
23 service and shall be calculated pursuant to the applicable provisions in KRS  
24 197.045 and 197.047;
- 25 (8) "Supervised compliance credit" means a credit on a supervised individual's sentence  
26 for compliance with supervision that shall be calculated pursuant to KRS 439.345;
- 27 (9) "Positive reinforcement" means any of a wide range of rewards and incentives,

1 including but not limited to awarding certificates of achievement, reducing  
 2 reporting requirements, deferring a monthly supervision fee payment, removing  
 3 supervision conditions such as home detention or curfew, or asking the supervised  
 4 individual to be a mentor to others;

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

7 (11) "Supervised individual" means an individual placed on pretrial diversion or any  
 8 other form of probation by a court or serving a period of parole or any other type of  
 9 post-release supervision from prison or jail.

10 ➔Section 2. KRS 439.3106 is amended to read as follows:

11 (1) Supervised individuals shall be subject to:

12 (a)~~(1)~~ Violation revocation proceedings and possible incarceration for failure  
 13 to comply with the conditions of supervision when such failure constitutes a  
 14 significant risk to prior victims of the supervised individual or the community  
 15 at large, and cannot be appropriately managed in the community; or

16 (b)~~(2)~~ Sanctions other than revocation and incarceration as appropriate to the  
 17 severity of the violation behavior, the risk of future criminal behavior by the  
 18 offender, and the need for, and availability of, interventions which may assist  
 19 the offender to remain compliant and crime-free in the community.

20 (2) (a) At a final revocation hearing, the board may subject a supervised individual  
 21 to a supervision continuation sanction for a period of up to nine (9) months,  
 22 or until the completion of the individual's sentence, whichever is shorter.

23 (b) Individuals under a supervision continuation sanction shall be placed in:

24 1. A state or local correctional or detention facility;

25 2. An inpatient program for substance abuse treatment which has been  
 26 approved by the department; or

27 3. Notwithstanding KRS 532.100, a halfway house, when the individuals

1 have been classified by the department as community custody.

2 (c) Individuals under a supervision continuation sanction shall be considered  
 3 an inmate for the duration of the sanction period. If an individual under a  
 4 supervision continuation sanction successfully completes the sanction, the  
 5 individual shall then be considered a supervised individual.

6 (d) 1. When a supervised individual has successfully completed the  
 7 supervision continuation sanction, the individual shall be:

8 a. Reinstated to supervision in the community without another  
 9 hearing before the board; and

10 b. Subject to the same supervision conditions that the individual  
 11 had been under at the time of the preliminary revocation  
 12 hearing.

13 2. When a supervised individual does not successfully complete a  
 14 supervision continuation sanction, the individual shall be returned to  
 15 the board for revocation proceedings.

16 ➔Section 3. KRS 439.348 is amended to read as follows:

17 Paroled prisoners shall be under the supervision of the department and subject to its  
 18 direction for the duration of parole. Supervision of the parolee by the department shall  
 19 cease at the time:

20 (1) Of recommitment of the prisoner to prison as a parole violator, including  
 21 recommitment under a supervision continuation sanction, at which time the  
 22 prisoner shall be considered an inmate;[-] or

23 (2) [at the time] A final discharge from parole is granted to the parolee by the board.

24 ➔Section 4. KRS 439.3108 is amended to read as follows:

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

27 (a) Modify the conditions of community supervision for the limited purpose of

1 imposing graduated sanctions;

2 (b) Place a supervised individual who is on probation who violates the conditions  
3 of community supervision in a state or local correctional or detention facility  
4 or residential center for a period of not more than ten (10) days consecutively,  
5 and not more than sixty (60) days in any one (1) calendar year. The  
6 department shall reimburse the local correctional or detention facility or  
7 residential center for the costs of incarcerating a person confined under this  
8 paragraph at the rate specified in KRS 532.100;

9 (c) Place a supervised individual serving a period of parole or post-release  
10 supervision from prison or jail who violates the conditions of community  
11 supervision in a state or local correctional or detention facility or residential  
12 center for a period of not more than thirty (30) days consecutively, and not  
13 more than sixty (60) days in any one (1) calendar year. The department shall  
14 reimburse the local correctional or detention facility or residential center for  
15 the costs of incarcerating a person confined under this paragraph at the rate  
16 specified in KRS 532.100; and

17 (d) Notwithstanding paragraphs (b) and (c) of this subsection, place any  
18 supervised individual who violates the conditions of community supervision  
19 in a state or local correctional or detention facility or residential center for the  
20 period of time a supervised individual awaits admission to a residential  
21 alcohol or substance use treatment program. The department shall reimburse  
22 the local correctional or detention facility or residential center for the costs of  
23 incarcerating a supervised individual serving a period of parole or post-release  
24 supervision confined under this paragraph at the rate specified in KRS  
25 532.100.

26 (2) A probation and parole officer intending to modify the conditions of community  
27 supervision by imposing a graduated sanction shall issue to the supervised

1 individual a notice of the intended sanction. The notice shall inform the supervised  
2 individual of the technical violation or violations alleged, the date or dates of the  
3 violation or violations, and the graduated sanction to be imposed.

4 (3) The imposition of a graduated sanction or sanctions by a probation and parole  
5 officer shall comport with the system of graduated sanctions adopted by the  
6 department under KRS 439.3107. Upon receipt of the notice, the supervised  
7 individual shall immediately accept or object to the sanction or sanctions proposed  
8 by the officer. The failure of the supervised individual to comply with a sanction  
9 shall constitute a violation of community supervision.

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

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

15 (b) If the supervised individual is on probation, then the provisions of KRS  
16 533.050 shall apply.

17 (5) If the graduated sanction involves confinement in a correctional or detention  
18 facility, confinement shall be approved by the probation and parole district  
19 supervisor, but the supervised individual may be taken into custody for up to four  
20 (4) hours while such approval is obtained. If the supervised individual is employed,  
21 the probation and parole officer shall, to the extent feasible, impose this sanction on  
22 weekend days or other days and times when the supervised individual is not  
23 working. **Discretionary detention applied under subsection (1)(b) or (1)(c) of this**  
24 **section may include work release.**

25 (6) A sanction that confines a supervised individual in a correctional or detention  
26 facility for a period **longer than those periods authorized under subsection (1)(b)**  
27 **and (1)(c) of this section**~~[of more than ten (10) consecutive days], or extends the~~

1 term of community supervision, shall not be imposed as a graduated sanction,  
2 except pursuant to an order of the court or the board.

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

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

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

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

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