

1 AN ACT relating to crimes and punishments.

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

3 ➔Section 1. KRS 500.080 is amended to read as follows:

4 As used in the Kentucky Penal Code, unless the context otherwise requires:

- 5 (1) "Actor" means any natural person and, where relevant, a corporation or an
6 unincorporated association;
- 7 (2) "Crime" means a misdemeanor or a felony;
- 8 (3) "Dangerous instrument" means any instrument, including parts of the human body
9 when a serious physical injury is a direct result of the use of that part of the human
10 body, article, or substance which, under the circumstances in which it is used,
11 attempted to be used, or threatened to be used, is readily capable of causing death or
12 serious physical injury;
- 13 (4) "Deadly weapon" means any of the following:
- 14 (a) A weapon of mass destruction;
- 15 (b) Any weapon from which a shot, readily capable of producing death or other
16 serious physical injury, may be discharged;
- 17 (c) Any knife other than an ordinary pocket knife or hunting knife;
- 18 (d) Billy, nightstick, or club;
- 19 (e) Blackjack or slapjack;
- 20 (f) Nunchaku karate sticks;
- 21 (g) Shuriken or death star; or
- 22 (h) Artificial knuckles made from metal, plastic, or other similar hard material;
- 23 (5) "Felony" means an offense for which **the minimum sentence which may be**
24 **imposed is** a sentence to a term of imprisonment of at least one (1) year in the
25 custody of the Department of Corrections[~~may be imposed~~];
- 26 (6) "Government" means the United States, any state, county, municipality, or other
27 political unit, or any department, agency, or subdivision of any of the foregoing, or

- 1 any corporation or other association carrying out the functions of government;
- 2 (7) "He" means any natural person and, where relevant, a corporation or an
3 unincorporated association;
- 4 (8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions.
5 Unless the context otherwise clearly requires, "law" also includes the common law;
- 6 (9) "Minor" means any person who has not reached the age of majority as defined in
7 KRS 2.015;
- 8 (10) "Misdemeanor" means an offense, other than a traffic infraction, for which a
9 sentence to a term of imprisonment of not more than twenty-four (24)~~twelve (12)~~
10 months can be imposed;
- 11 (11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine
12 is provided by any law of this state or by any law, local law, or ordinance of a
13 political subdivision of this state or by any law, order, rule, or regulation of any
14 governmental instrumentality authorized by law to adopt the same;
- 15 (12) "Person" means a human being, and where appropriate, a public or private
16 corporation, an unincorporated association, a partnership, a government, or a
17 governmental authority;
- 18 (13) "Physical injury" means substantial physical pain or any impairment of physical
19 condition;
- 20 (14) "Possession" means to have actual physical possession or otherwise to exercise
21 actual dominion or control over a tangible object;
- 22 (15) "Serious physical injury" means physical injury which creates a substantial risk of
23 death, or which causes serious and prolonged disfigurement, prolonged impairment
24 of health, or prolonged loss or impairment of the function of any bodily organ. For a
25 child twelve (12) years of age or less at the time of the injury, a serious physical
26 injury includes but is not limited to the following:
- 27 (a) Bruising near the eyes, or on the head, neck, or lower back overlying the

- 1 kidneys;
- 2 (b) Any bruising severe enough to cause underlying muscle damage as determined
3 by elevated creatine kinase levels in the blood;
- 4 (c) Any bruising or soft tissue injury to the genitals that affects the ability to
5 urinate or defecate;
- 6 (d) Any testicular injury sufficient to put fertility at risk;
- 7 (e) Any burn near the eyes or involving the mouth, airway, or esophagus;
- 8 (f) Any burn deep enough to leave scarring or dysfunction of the body;
- 9 (g) Any burn requiring hospitalization, debridement in the operating room, IV
10 fluids, intubation, or admission to a hospital's intensive care unit;
- 11 (h) Rib fracture;
- 12 (i) Scapula or sternum fractures;
- 13 (j) Any broken bone that requires surgery;
- 14 (k) Head injuries that result in intracranial bleeding, skull fracture, or brain injury;
- 15 (l) A concussion that results in the child becoming limp, unresponsive, or results
16 in seizure activity;
- 17 (m) Abdominal injuries that indicate internal organ damage regardless of whether
18 surgery is required;
- 19 (n) Any injury requiring surgery;
- 20 (o) Any injury that requires a blood transfusion; and
- 21 (p) Any injury requiring admission to a hospital's critical care unit;
- 22 (16) "Unlawful" means contrary to law or, where the context so requires, not permitted
23 by law. It does not mean wrongful or immoral;
- 24 (17) "Violation" means an offense, other than a traffic infraction, for which a sentence to
25 a fine only can be imposed; and
- 26 (18) "Weapon of mass destruction" means:
- 27 (a) Any destructive device as defined in KRS 237.030, but not fireworks as

1 defined in KRS 227.700;

2 (b) Any weapon that is designed or intended to cause death or serious physical
3 injury through the release, dissemination, or impact of toxic or poisonous
4 chemicals or their precursors;

5 (c) Any weapon involving a disease organism; or

6 (d) Any weapon that is designed to release radiation or radioactivity at a level
7 dangerous to human life.

8 ➔Section 2. KRS 532.020 is amended to read as follows:

9 (1) Any offense defined outside this code for which a law outside this code provides a
10 sentence to a term of imprisonment in the state for:

11 (a) At least one (1) but not more than five (5) years shall be deemed a Class D
12 felony;

13 (b) At least five (5) but not more than ten (10) years shall be deemed a Class C
14 felony;

15 (c) At least ten (10) but not more than twenty (20) years shall be deemed a Class
16 B felony;

17 (d) For at least twenty (20) but not more than fifty (50) years or for life shall be
18 deemed a Class A felony.

19 (2) **Any offense defined outside this code for which a law outside this code provides a**
20 **sentence to a term of imprisonment in the state with a maximum which falls**
21 **between twelve (12) and twenty-four (24) months shall be deemed a gross**
22 **misdemeanor.**

23 **(3)** Any offense defined outside this code for which a law outside this code provides a
24 sentence to a definite term of imprisonment with a maximum which falls between
25 ninety (90) days and twelve (12) months shall be deemed a Class A misdemeanor.

26 ~~**(4)**~~~~**(3)**~~ Any offense defined outside this code for which a law outside this code
27 provides a sentence to a definite term of imprisonment with a maximum of less than

1 ninety (90) days shall be deemed a Class B misdemeanor.

2 ~~(5)(4)~~ Any offense defined outside this code for which a law outside this code
3 provides a sentence to a fine only or to any other punishment, whether in
4 combination with a fine or not, other than death or imprisonment shall be deemed a
5 violation.

6 ➔Section 3. KRS 532.040 is amended to read as follows:

7 **(1) Except as provided in subsection (2) of this section,** when a person is convicted of
8 an offense, other than a capital offense or having been designated a violent offender
9 as defined in KRS 439.3401, the court, where authorized by KRS Chapter 533 and
10 where not prohibited by other provisions of applicable law, may sentence such
11 person to a period of probation or to a period of conditional discharge as provided in
12 that chapter. A sentence to probation or conditional discharge shall be deemed a
13 tentative one to the extent that it may be altered or revoked in accordance with KRS
14 Chapter 533, but for purposes of appeal shall be deemed to be a final judgment of
15 conviction. In any case where the court imposes a sentence of probation or
16 conditional discharge, it may also impose a fine as authorized by KRS Chapter 534.

17 **(2) Unless a defendant is ineligible for probation under another provision of law, a**
18 **sentence of imprisonment for a gross misdemeanor shall be probated on such**
19 **reasonable terms as the court deems necessary to address the risks and needs of**
20 **the defendant.**

21 ➔Section 4. KRS 532.070 is amended to read as follows:

22 (1) When a sentence of imprisonment for a felony is fixed by a jury pursuant to KRS
23 532.060 and the trial court, having regard to the nature and circumstances of the
24 crime and to the history and character of the defendant, is of the opinion that a
25 sentence of imprisonment is necessary but that the maximum term fixed by the jury is
26 unduly harsh, the court may modify that sentence and fix a maximum term within the
27 limits provided in KRS 532.060 for the offense for which the defendant presently

1 stands convicted.

2 (2) When a sentence of imprisonment is fixed by a jury for a Class D felony ~~is fixed by~~
3 ~~a jury~~ pursuant to KRS 532.060 or for a gross misdemeanor pursuant to Section
4 5 of this Act, and the trial court, having regard to the nature and circumstances of
5 the crime and to the history and character of the defendant, is of the opinion that a
6 sentence of imprisonment is necessary but that it would be unduly harsh to impose
7 such a sentence, the court may sentence the defendant to a definite term of
8 imprisonment in a county or a regional correctional institution for a term of one (1)
9 year or less.

10 ➔Section 5. KRS 532.090 is amended to read as follows:

11 (1) A sentence of imprisonment for a Class A or Class B misdemeanor shall be a
12 definite term and shall be fixed within the following maximum limitations:

13 ~~(a)(1)~~ For a Class A misdemeanor, the term shall not exceed twelve (12)
14 months; and

15 ~~(b)(2)~~ For a Class B misdemeanor, the term shall not exceed ninety (90) days.

16 (2) A sentence of imprisonment for a gross misdemeanor shall be an indeterminate
17 sentence, not less than thirty (30) days, nor more than twenty-four (24) months,
18 subject to modification by the trial judge pursuant to Section 4 of this Act.

19 ➔Section 6. KRS 532.100 is amended to read as follows:

20 (1) When an indeterminate term of imprisonment is imposed, the court shall commit the
21 defendant to the custody of the Department of Corrections for the term of his or her
22 sentence and until released in accordance with the law.

23 (2) When a definite term of imprisonment is imposed, the court shall commit the
24 defendant to the county or city correctional institution or to a regional correctional
25 institution for the term of his or her sentence and until released in accordance with
26 the law.

27 (3) When a sentence of death is imposed, the court shall commit the defendant to the

1 custody of the Department of Corrections with directions that the sentence be
2 carried out according to law.

3 (4) (a) The provisions of KRS 500.080(5) notwithstanding, ~~if~~ a **gross**
4 **misdemeanant or** Class D felon ~~is~~ sentenced to an indeterminate term of
5 imprisonment of five (5) years or less~~, he~~ shall serve that term in a county jail
6 in a county in which the fiscal court has agreed to house state prisoners; except
7 that, when an indeterminate sentence of two (2) years or more is imposed on a
8 Class D felon convicted of a sexual offense enumerated in KRS 197.410(1), or
9 a crime under KRS 17.510(11) or (12), the sentence shall be served in a state
10 institution. Counties choosing not to comply with the provisions of this
11 paragraph shall be granted a waiver by the commissioner of the Department of
12 Corrections.

13 (b) The provisions of KRS 500.080(5) notwithstanding, a **gross misdemeanor or**
14 Class D felon who received a sentence of more than five (5) years for
15 nonviolent, nonsexual offenses, but who currently has less than five (5) years
16 remaining to be served, may serve the remainder of his or her term in a county
17 jail in a county in which the fiscal court has agreed to house state prisoners.

18 (c) 1. The provisions of KRS 500.080(5) notwithstanding, and except as
19 provided in subparagraph 2. of this paragraph, a **gross misdemeanor or**
20 Class C or D felon with a sentence of more than five (5) years who is
21 classified by the Department of Corrections as community custody shall
22 serve that term in a county jail in a county in which the fiscal court has
23 agreed to house state prisoners if:

- 24 a. Beds are available in the county jail;
- 25 b. State facilities are at capacity; and
- 26 c. Halfway house beds are being utilized at the contract level as of
27 July 15, 2000.

- 1 2. When an indeterminate sentence of two (2) years or more is imposed on
2 a felon convicted of a sex crime, as defined in KRS 17.500, or any similar
3 offense in another jurisdiction, the sentence shall be served in a state
4 institution.
- 5 3. Counties choosing not to comply with the provisions of this paragraph
6 shall be granted a waiver by the commissioner of the Department of
7 Corrections.
- 8 (d) Any jail that houses state inmates under this subsection shall offer programs as
9 recommended by the Jail Standards Commission. The Department of
10 Corrections shall adopt the recommendations of the Jail Standards Commission
11 and promulgate administrative regulations establishing required programs for a
12 jail that houses state inmates under this subsection.
- 13 (5) The jailer of a county in which a **gross misdemeanor**, Class D felon, or a Class C
14 felon is incarcerated may request the commissioner of the Department of
15 Corrections to incarcerate the felon in a state corrections institution if the jailer has
16 reasons to believe that the felon is an escape risk, a danger to himself, **herself**, or
17 other inmates, an extreme security risk, or needs protective custody beyond that
18 which can be provided in a county jail. The commissioner of the Department of
19 Corrections shall evaluate the request and transfer the inmate if he **or she** deems it
20 necessary. If the commissioner refuses to accept the felon inmate, and the Circuit
21 Judge of the county that has jurisdiction of the offense charged is of the opinion that
22 the felon cannot be safely kept in a county jail, the Circuit Judge, with the consent of
23 the Governor, may order the felon transferred to the custody of the Department of
24 Corrections.
- 25 (6) **Gross misdemeanants**, Class D felons, and Class C felons serving their time in a
26 local jail shall be considered state prisoners, and the Department of Corrections shall
27 pay the jail in which the prisoner is incarcerated a per diem amount determined

1 according to KRS 431.215(2). For other state prisoners and parole violator
2 prisoners, the per diem payments shall also begin on the date prescribed in KRS
3 431.215(2).

4 (7) State prisoners, excluding *gross misdemeanants and* the Class D felons and Class C
5 felons qualifying to serve time in county jails, shall be transferred to the state
6 institution within forty-five (45) days of final sentencing.

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

11 (b) The authority to release an inmate to work under this subsection may be
12 exercised at any time during the inmate's sentence, including the period when
13 the court has concurrent authority to permit work release pursuant to KRS
14 439.265.

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

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

- 24 1. Is not eligible for work release pursuant to KRS 197.140;
- 25 2. Has a maximum or close security classification as defined by
26 administrative regulations promulgated by the Department of
27 Corrections;

1 3. Is subject to the provisions of KRS 532.043; or

2 4. Is in a reentry center as defined in KRS 441.005.

3 ➔Section 7. KRS 532.260 is amended to read as follows:

4 (1) Any Class C or Class D felon **or gross misdemeanor** who is serving a sentence in a
5 state-operated prison, contract facility, or county jail shall, at the discretion of the
6 commissioner, be eligible to serve the remainder of his or her sentence outside the
7 walls of the detention facility under terms of home incarceration or conditional
8 release to an appropriate housing alternative specified by KRS 532.262 using an
9 approved monitoring device as defined in KRS 532.200, if the felon:

10 (a) 1. Has not been convicted of, pled guilty to, or entered an Alford plea to a
11 violent felony as defined by the Department of Corrections classification
12 system; or

13 2. Has not been convicted of, pled guilty to, or entered an Alford plea to a
14 sex crime as defined in KRS 17.500;

15 (b) Has nine (9) months or less to serve on his or her sentence;

16 (c) Has voluntarily participated in a discharge planning process with the
17 department to address his or her:

18 1. Education;

19 2. Employment, technical, and vocational skills;

20 3. Housing, medical, and mental health needs; and

21 4. Criminal risk factors; and

22 (d) Has needs that may be adequately met in the community where he or she will
23 reside upon release.

24 (2) A person who is placed under terms of home incarceration pursuant to subsection
25 (1) of this section shall remain in the custody of the Department of Corrections. Any
26 unauthorized departure from the terms of home incarceration may be prosecuted as
27 an escape pursuant to KRS Chapter 520 and shall result in the person being returned

1 to prison.

2 (3) The Department of Corrections shall promulgate administrative regulations to
3 implement the provisions of this section.

4 ➔Section 8. KRS 533.010 is amended to read as follows:

5 (1) Any person who has been convicted of a crime and who has not been sentenced to
6 death may be sentenced to probation, probation with an alternative sentencing plan,
7 or conditional discharge as provided in this chapter.

8 (2) Before imposition of a sentence of imprisonment, the court shall consider probation,
9 probation with an alternative sentencing plan, or conditional discharge. Unless the
10 defendant is a violent felon as defined in KRS 439.3401 or a statute prohibits
11 probation, shock probation, or conditional discharge, after due consideration of the
12 defendant's risk and needs assessment, nature and circumstances of the crime, and
13 the history, character, and condition of the defendant, probation or conditional
14 discharge shall be granted, unless the court is of the opinion that imprisonment is
15 necessary for protection of the public because:

16 (a) There is substantial risk that during a period of probation or conditional
17 discharge the defendant will commit another crime;

18 (b) The defendant is in need of correctional treatment that can be provided most
19 effectively by his 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 (3) In the event the court determines that probation is not appropriate after due
23 consideration of the defendant's risk and needs assessment, nature and circumstances
24 of the crime, and the history, character, and condition of the defendant, probation
25 with an alternative sentencing plan shall be granted unless the court is of the opinion
26 that imprisonment is necessary for the protection of the public because:

27 (a) There is a likelihood that during a period of probation with an alternative

- 1 sentencing plan or conditional discharge the defendant will commit a Class D
2 or Class C felony or a substantial risk that the defendant will commit a Class B
3 or Class A felony;
- 4 (b) The defendant is in need of correctional treatment that can be provided most
5 effectively by 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 (4) The court shall not determine that there is a likelihood that the defendant will
9 commit a Class C or Class D felony based upon the defendant's risk and needs
10 assessment and the fact that:
- 11 (a) The defendant has never been convicted of, pled guilty to, or entered an Alford
12 plea to a felony offense;
- 13 (b) If convicted of, having pled guilty to, or entered an Alford plea to a felony
14 offense, the defendant successfully completed probation more than ten (10)
15 years immediately prior to the date of the commission of the felony for which
16 the defendant is now being sentenced and has had no intervening convictions,
17 pleas of guilty, or Alford pleas to any criminal offense during that period; or
- 18 (c) The defendant has been released from incarceration for the commission of a
19 felony offense more than ten (10) years immediately prior to the date of the
20 commission of the felony for which the defendant is now being sentenced and
21 has had no intervening convictions, pleas of guilty, or Alford pleas to any
22 criminal offense during that period.
- 23 (5) In making a determination under subsection (4) of this section, the court may
24 determine that the greater weight of the evidence indicates that there is a likelihood
25 that the defendant will commit a Class C or Class D felony.
- 26 (6) Upon initial sentencing of a defendant or upon modification or revocation of
27 probation, when the court deems it in the best interest of the public and the

1 defendant, the court may order probation with the defendant to serve one (1) of the
2 following alternative sentences:

3 (a) To a halfway house for no more than twelve (12) months;

4 (b) To home incarceration with or without work release for no more than twelve
5 (12) months;

6 (c) To jail for a period not to exceed twelve (12) months with or without work
7 release, community service and other programs as required by the court;

8 (d) To a residential treatment program for the abuse of alcohol or controlled
9 substances;

10 (e) To a reentry center for no more than twelve (12) months; or

11 (f) To any other specified counseling program, rehabilitation or treatment
12 program, or facility.

13 (7) If during the term of the alternative sentence the defendant fails to adhere to and
14 complete the conditions of the alternative sentence, the court may modify the terms
15 of the alternative sentence or may modify or revoke probation and alternative
16 sentence and commit the defendant to an institution.

17 (8) In addition to those conditions that the court may impose, the conditions of
18 alternative sentence shall include the following and, if the court determines that the
19 defendant cannot comply with them, then they shall not be made available:

20 (a) A defendant sentenced to a halfway house shall:

21 1. Be working or pursuing his or her education or be enrolled in a full-time
22 treatment program;

23 2. Pay restitution during the term of probation; and

24 3. Have no contact with the victim of the defendant's crime;

25 (b) A defendant sentenced to home incarceration shall:

26 1. Be employed by another person or self-employed at the time of
27 sentencing to home incarceration and continue the employment

- 1 throughout the period of home incarceration, unless the court determines
2 that there is a compelling reason to allow home incarceration while the
3 defendant is unemployed;
- 4 2. Pay restitution during the term of home incarceration;
 - 5 3. Enter a treatment program, if appropriate;
 - 6 4. Pay all or some portion of the cost of home incarceration as determined
7 by the court;
 - 8 5. Comply with other conditions as specified; and
 - 9 6. Have no contact with the victim of the defendant's crime;
- 10 (c) A defendant sentenced to jail with community service shall:
- 11 1. Pay restitution during all or some part of the defendant's term of
12 probation; and
 - 13 2. Have no contact with the victim of the defendant's crime;
- 14 (d) A defendant sentenced to a residential treatment program for drug and alcohol
15 abuse shall:
- 16 1. Undergo mandatory drug screening during term of probation;
 - 17 2. Be subject to active, supervised probation for a term of five (5) years;
 - 18 3. Undergo aftercare as required by the treatment program;
 - 19 4. Pay restitution during the term of probation; and
 - 20 5. Have no contact with the victim of the defendant's crime; or
- 21 (e) A defendant sentenced to a reentry center shall:
- 22 1. Be employed in the community or working in a vocational program at
23 the reentry center;
 - 24 2. Be enrolled in a treatment program;
 - 25 3. Pay restitution, fees, and fines during the term of probation; and
 - 26 4. Comply with other conditions as specified.
- 27 (9) When the court deems it in the best interest of the defendant and the public, the

1 court may order the person to work at community service related projects under the
2 terms and conditions specified in KRS 533.070. Work at community service related
3 projects shall be considered as a form of conditional discharge.

4 (10) Probation with alternative sentence shall not be available as set out in KRS 532.045
5 and 533.060, except as provided in KRS 533.030(6).

6 (11) The court may utilize a community corrections program authorized or funded under
7 KRS Chapter 196 to provide services to any person released under this section.

8 (12) When the court deems it in the best interest of the defendant and the public, the
9 court may order the defendant to placement for probation monitoring by a private
10 agency. The private agency shall report to the court on the defendant's compliance
11 with his or her terms of probation or conditional discharge. The defendant shall be
12 responsible for any reasonable charges which the private agency charges.

13 (13) The jailer in each county incarcerating *gross misdemeanants or* Class C or D felons
14 may deny work release privileges to any defendant for violating standards of
15 discipline or other jail regulations. The jailer shall report the action taken and the
16 details of the violation on which the action was based to the court of jurisdiction
17 within five (5) days of the violation.

18 (14) The Department of Corrections shall, by administrative regulation, develop written
19 criteria for work release privileges granted under this section.

20 (15) Reimbursement of incarceration costs shall be paid directly to the jailer in the
21 amount specified by written order of the court. Incarceration costs owed to the
22 Department of Corrections shall be paid through the circuit clerk.

23 (16) The court shall enter into the record written findings of fact and conclusions of law
24 when considering implementation of any sentence under this section.

25 ➔Section 9. KRS 533.251 is amended to read as follows:

26 (1) Every pretrial diversion program shall set as a condition precedent for entry into the
27 program that any defendant charged with a Class D felony offense under KRS

1 Chapter 218A and any defendant charged with a *gross misdemeanor or* Class D
2 felony offense whose criminal, medical, or mental health record indicates a present
3 need for or benefit from substance abuse treatment participate in and demonstrate
4 suitable compliance with the terms of a secular or faith-based substance abuse
5 treatment or recovery program if space is available in a treatment or recovery
6 program suitable for that defendant. The substance abuse treatment or recovery
7 program shall be appropriate to the defendant's needs, and may include commitment
8 to an intensive outpatient program, a residential substance abuse treatment or
9 recovery facility, or the intensive secured drug abuse treatment program developed
10 under KRS 196.285. Consideration may be given, in whole or in part, to a
11 defendant's participation in drug monitoring or a substance abuse treatment or
12 recovery plan ordered under KRS 431.518 as evidence of suitable compliance under
13 this section.

14 (2) The court may waive compliance with subsection (1) of this section if the defendant
15 can show that exigent circumstances exist sufficient to justify diversion program
16 participation without a prior demonstration of treatment compliance.

17 (3) The court may continue in effect any nonfinancial conditions of pretrial release
18 imposed under KRS 431.520 or 431.525 and may hold the case in abeyance during
19 the period of time the defendant is attempting treatment or recovery prior to
20 diversion under subsection (1) of this section.

21 (4) The court may allow a person charged with a Class C felony to participate in a
22 secular or faith-based substance abuse treatment or recovery program under
23 subsection (1) of this section or obtain a waiver under subsection (2) of this section.
24 If the person is successful in the program or is waived, the person shall be eligible
25 for entry into the pretrial diversion program under the same terms, conditions, and
26 limitations as a Class D felon.

27 ➔Section 10. KRS 431.410 is amended to read as follows:

1 The issuance of a summons rather than an arrest warrant shall be mandatory for all
 2 offenses, except for violations of KRS 189.290, 189.393, 189.520, 189.580, 511.080 or
 3 525.070, which are deemed violations as defined in KRS 532.020~~(5)~~~~(4)~~ and traffic
 4 infractions for which a fine only can be imposed unless the judicial officer finds that:

- 5 (1) The defendant previously has failed to respond to a citation or summons for an
 6 offense; or
- 7 (2) He has no ties to the community and there is a substantial likelihood that he will
 8 refuse to respond to a summons; or
- 9 (3) The whereabouts of the defendant are unknown and the issuance of an arrest
 10 warrant is necessary in order to subject him to the jurisdiction of the court; or
- 11 (4) Where arrest is necessary to prevent imminent bodily harm to the accused or to
 12 another; or
- 13 (5) For any other good and compelling reason as determined by the judicial officer.

14 ➔Section 11. KRS 439.177 is amended to read as follows:

- 15 (1) Any misdemeanor, ***other than a gross misdemeanor***, may petition the sentencing
 16 court for parole privileges.
- 17 (2) The sentencing judge shall study the record of all persons petitioning for parole and,
 18 in his discretion, may:
 - 19 (a) Cause additional background or character information to be collected or
 20 reduced to writing by the Department of Corrections;
 - 21 (b) Conduct hearings on the desirability of granting parole;
 - 22 (c) Impose on the parolee the conditions he sees fit;
 - 23 (d) Order the granting of parole;
 - 24 (e) Issue warrants for persons when there is reason to believe they have violated
 25 the conditions of their parole and conduct hearings on such matters;
 - 26 (f) Determine the period of supervision for parolees, which period may be subject
 27 to extension or reduction;

- 1 (g) Grant final discharge to parolees.
- 2 (3) The sentencing judge shall keep a record of his acts, and shall notify the appropriate
3 jail official of his decision relating to the persons who are or have been confined
4 therein.
- 5 (4) When an order for parole is issued, it shall recite the conditions thereof, and such
6 orders shall be transmitted to the Department of Corrections.
- 7 (5) The period of time spent on parole shall not count as a part of the prisoner's
8 maximum sentence except in determining the parolee's eligibility for a final discharge
9 from parole as set out in subsection (7).
- 10 (6) Paroled prisoners shall be under the supervision of the department and subject to its
11 decision for the duration of parole. Supervision of the parolee by the Department of
12 Corrections shall cease at the time of recommitment of the prisoner to the jail as a
13 parole violator, or at the time a final discharge from parole is granted by the
14 sentencing judge.
- 15 (7) When any paroled prisoner has performed the obligations of his parole during his
16 period of active parole supervision, the sentencing judge may, at the termination of a
17 period to be determined by the sentencing judge, issue a final discharge from parole
18 to the prisoner. Unless ordered earlier by the sentencing judge, a final discharge shall
19 be issued when the prisoner has been out of jail on parole a sufficient period of time
20 to have been eligible for discharge from jail by maximum expiration of sentence had
21 he not been paroled, if before this date he had not absconded from parole
22 supervision or that a warrant for parole violation had not been issued.
- 23 (8) The prisoner convicted of a misdemeanor and released on parole under the
24 provisions of this statute shall be subject to all reasonable Department of Corrections
25 regulations.
- 26 ➔Section 12. KRS 439.340 is amended to read as follows:
- 27 (1) The board may release on parole persons confined in any adult state penal or

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

16 (2) Before granting the parole of any prisoner, the board shall consider the pertinent
17 information regarding the prisoner, including the results of his or her most recent
18 risk and needs assessment, and shall have him or her appear before it for interview
19 and hearing. The board in its discretion may hold interviews and hearings for
20 prisoners convicted of Class C felonies not included within the definition of "violent
21 offender" in KRS 439.3401, ~~and~~ Class D felonies, and gross misdemeanors. The
22 board in its discretion may request the parole board of another state confining
23 prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole
24 recommendation to the board. A parole shall be ordered only for the best interest of
25 society and not as an award of clemency, and it shall not be considered a reduction
26 of sentence or pardon. A prisoner shall be placed on parole only when arrangements
27 have been made for his or her proper employment or for his or her maintenance and

1 care, and when the board believes he or she is able and willing to fulfill the
2 obligations of a law abiding citizen. Notwithstanding any statute to the contrary,
3 including KRS 440.330, when a prisoner is otherwise eligible for parole and the
4 board has recommended parole for that prisoner for the reasons set forth in this
5 subsection, the board may grant parole to any prisoner wanted as a fugitive by any
6 other jurisdiction, and the prisoner shall be released to the detainer from that
7 jurisdiction. Such parole shall not constitute a relinquishment of jurisdiction over the
8 prisoner, and the board in all cases expressly reserves the right to return the prisoner
9 to confinement in a correctional institution of the Commonwealth if the prisoner
10 violates the terms of his or her parole.

11 (3) (a) A nonviolent offender convicted *of a gross misdemeanor with an aggregate*
12 *sentence of not more than twenty-four (24) months, or* of a Class D felony
13 with an aggregate sentence of one (1) to five (5) years, who is confined to a
14 state penal institution or county jail shall have his or her case reviewed by the
15 Parole Board after serving fifteen percent (15%) or two (2) months of the
16 original sentence, whichever is longer.

17 (b) Except as provided in this section, the board shall adopt administrative
18 regulations with respect to the eligibility of prisoners for parole, the conduct of
19 parole and parole revocation hearings and all other matters that come before it,
20 or conditions to be imposed upon parolees. Regulations governing the
21 eligibility of prisoners for parole shall be in accordance with professionally
22 accepted ideas of correction and reform and may utilize in part objective,
23 performance-based criteria and risk and needs assessment information;
24 however, nothing herein contained shall preclude the board from utilizing its
25 present regulations in conjunction with other factors involved that would relate
26 to the inmate's needs and the safety of the public.

27 (4) The board shall insure that all sentenced felons who have longer than ninety (90)

1 days to serve in state penal institutions, halfway houses, reentry centers, and county
2 jails are considered for parole not less than sixty (60) days prior to their parole
3 eligibility date, and the Department of Corrections shall provide the necessary
4 assistance and information to the board in order for it to conduct timely parole
5 reviews.

6 (5) In addition to or in conjunction with each hearing conducted under subsection (2) of
7 this section for any prisoner convicted of a Class A, B, or C felony and prior to the
8 granting of a parole to any such prisoner, the parole board shall conduct a hearing of
9 which the following persons shall receive not less than forty-five (45) nor more than
10 ninety (90) days' notice: the Commonwealth's attorney who shall notify the sheriff of
11 every county and the chief of police of every city and county in which the prisoner
12 committed any Class A, B, or C felony for which he or she is imprisoned, and all
13 identified victims of the crimes or the next of kin of any victim who is deceased.
14 Notice to the Commonwealth's attorney shall be by mail, fax, or electronic means at
15 the discretion of the board, and shall be in a manner that ensures receipt at the
16 Commonwealth attorney's business office. Notices received by chiefs of police and
17 sheriffs shall be posted in a conspicuous location where police employed by the
18 department may see it. Notices shall be posted in a manner and at a time that will
19 allow officers to make comment thereon to the Parole Board. Notice to victims or
20 their next of kin shall be made, for prisoners incarcerated prior to July 15, 1986, by
21 mail, fax, or electronic means at the discretion of the board, and shall be in a manner
22 that ensures receipt by the Commonwealth's attorney, who shall forward the notice
23 promptly to the victims or their next of kin at their last known address. For prisoners
24 incarcerated on or after July 15, 1986, notice to the victims or their next of kin shall
25 be by mail from the Parole Board to their last known address as provided by the
26 Commonwealth's attorney to the Parole Board at the time of incarceration of the
27 prisoner. Notice to the victim or the next of kin of subsequent considerations for

1 parole after the initial consideration shall not be sent if the victim or the next of kin
2 gives notice to the board that he or she no longer wants to receive such notices. The
3 notice shall include the time, date, and place of the hearing provided for in this
4 subsection, and the name and address of a person to write if the recipient of the
5 notice desires to attend the hearing or to submit written comments.

6 (6) Persons receiving notice as provided for in subsection (5) of this section may submit
7 comments, in person or in writing, to the board upon all issues relating to the parole
8 of the prisoner. The board shall read and consider all comments prior to making its
9 parole decision, if they are received by the board not less than seven (7) days before
10 the date for the hearing. The board shall retain all comments in the prisoner's
11 permanent Parole Board file, and shall consider them in conjunction with any
12 subsequent parole decisions affecting the prisoner. In addition to officers listed in
13 subsection (5) of this section, the crime victims or the next of kin of any victim who
14 is deceased or who is disabled and cannot attend the hearing or the parent or legal
15 guardian of any victim who is a minor may attend the hearing provided for in
16 subsection (5) of this section and present oral and written comments upon all issues
17 relating to the parole of the prisoner, if they have advised the board, in writing
18 received by the board not less than seven (7) days prior to the date set for the
19 hearing, of their intention to attend the hearing. The board shall receive and consider
20 all comments, shall make a record of them which it shall retain in the prisoner's
21 permanent Parole Board file, and shall consider them in conjunction with any
22 subsequent parole decision affecting the prisoner. Persons appearing before the
23 Parole Board pursuant to this subsection may elect to make their presentations
24 outside of the presence of the prisoner.

25 (7) Victims of *gross misdemeanors and* Class D felonies may submit comments in
26 person or in writing to the board upon all issues relating to the parole of a prisoner.

27 (8) Any hearing provided for in subsections (5), (6), and (7) of this section shall be open

1 to the public unless the persons having a right to appear before the board as
2 specified in those subsections request closure of hearing for reasons of personal
3 safety, in which event the hearing shall be closed. The time, date, and location of
4 closed hearings shall not be disclosed to the public.

5 (9) Except as specifically set forth in this section, nothing in this section shall be deemed
6 to expand or abridge any existing rights of persons to contact and communicate with
7 the Parole Board or any of its members, agents, or employees.

8 (10) The unintentional failure by the Parole Board, sheriff, chief of police, or any of its
9 members, agents, or employees or by a Commonwealth's attorney or any of his or
10 her agents or employees to comply with any of the provisions of subsections (5), (6),
11 and (8) of this section shall not affect the validity of any parole decision or give rise
12 to any right or cause of action by the crime victim, the prisoner, or any other person.

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

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

20 (13) When the board grants parole contingent upon completion of a program, the
21 commissioner, or his or her designee, shall determine the most appropriate
22 placement in a program operated by the department or a residential or nonresidential
23 program within the community approved by the department. If the department
24 releases a parolee to a nonresidential program, the department shall release the
25 parolee only if he or she will have appropriate community housing pursuant to KRS
26 439.3408.

27 (14) If the parole board does not grant parole to a prisoner, the maximum deferment for a

1 prisoner convicted of a non-violent, non-sexual Class C or Class D felony shall be
2 twenty-four (24) months. **For a prisoner convicted of a gross misdemeanor, the**
3 **maximum deferment shall be six (6) months.** For all other prisoners who are
4 eligible for parole:

5 (a) No parole deferment greater than five (5) years shall be ordered unless
6 approved by a majority vote of the full board; and

7 (b) No deferment shall exceed ten (10) years, except for life sentences.

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

9 ➔Section 13. KRS 194A.990 is amended to read as follows:

10 (1) Any person who violates the provisions of KRS 194A.505(1), (2), or (7) shall be
11 guilty of a Class A misdemeanor, unless the sum total of benefits received in excess
12 of that to which the person was entitled at the time of the offense was committed is
13 valued at or over one hundred dollars (\$100), in which case it is a **gross**
14 **misdemeanor**~~[Class D felony]~~.

15 (2) Any person who violates KRS 194A.505(3) shall be guilty of a **gross**
16 **misdemeanor**~~[Class D felony]~~.

17 (3) Any person who violates the provisions of KRS 194A.505(4) or (5) shall be guilty of
18 a Class C felony.

19 (4) Any person who violates the provisions of KRS 194A.505(6) shall be guilty of a
20 **gross misdemeanor**~~[Class D felony]~~, unless the purpose of the violation is to obtain
21 ten thousand dollars (\$10,000) or more, in which case it shall be a Class C felony.

22 (5) Any person who violates KRS 194A.505(1) to (6) shall, in addition to any other
23 penalties provided by law, forfeit and pay a civil penalty of payment to the cabinet in
24 the amount of all benefits and payments to which the person was not entitled.

25 (6) Any provider who violates KRS 194A.505(1) to (6) shall, in addition to any other
26 penalties provided by law, including the penalty set forth in subsection (5) of this
27 section, forfeit and pay civil penalties of:

- 1 (a) Payment to the State Treasury's general revenue fund in an amount equal to
 2 three (3) times the amount of the benefits and payments to which the person
 3 was not entitled; and
- 4 (b) Payment to the State Treasury's general revenue fund of all reasonable
 5 expenses that the court determines have been necessarily incurred by the state
 6 in the enforcement of this section.

7 ➔Section 14. KRS 218A.1415 is amended to read as follows:

- 8 (1) A person is guilty of possession of a controlled substance in the first degree when he
 9 or she knowingly and unlawfully possesses:
- 10 (a) A controlled substance that is classified in Schedules I or II and is a narcotic
 11 drug;
- 12 (b) A controlled substance analogue;
- 13 (c) Methamphetamine;
- 14 (d) Lysergic acid diethylamide;
- 15 (e) Phencyclidine;
- 16 (f) Gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of
 17 isomers, and analogues; or
- 18 (g) Flunitrazepam, including its salts, isomers, and salts of isomers.
- 19 (2) Possession of a controlled substance in the first degree is a Class E~~Class D~~ felony
 20 subject to the following provisions:
- 21 ~~(a) [The maximum term of incarceration shall be no greater than three (3) years,~~
 22 ~~notwithstanding KRS Chapter 532;~~
- 23 ~~(b)]~~For a person's first or second offense under this section, he or she may be
 24 subject to a period of:
- 25 1. Deferred prosecution pursuant to KRS 218A.14151; or
- 26 2. Presumptive probation;
- 27 ~~(b)~~~~(e)~~ Deferred prosecution under paragraph (b) of this subsection shall be the

1 preferred alternative for a first offense; and

2 ~~(c)~~~~(d)~~ If a person does not enter a deferred prosecution program for his or her
3 first or second offense, he or she shall be subject to a period of presumptive
4 probation, unless a court determines the defendant is not eligible for
5 presumptive probation as defined in KRS 218A.010.

6 ➔Section 15. KRS 434.650 is amended to read as follows:

- 7 (1) A person who, with intent to defraud the issuer, a participating party, a person, or
8 organization providing money, goods, services, or anything else of value, or any
9 other person:
- 10 (a) Uses for the purpose of obtaining money, goods, services, or anything else of
11 value a credit or debit card obtained or retained in violation of KRS 434.570 to
12 434.650, or any of such sections, or a credit or debit card which he knows is
13 forged, expired, or revoked; or
- 14 (b) Obtains money, goods, services, or anything else of value by representing
15 without consent of the cardholder that he is the holder of a specified card or by
16 representing that he is the holder of a card and such card has not in fact been
17 issued; or
- 18 (c) Uses a credit or debit card obtained or retained in violation of KRS 434.570 to
19 434.650, or any of such sections, or a credit or debit card which he knows is
20 forged, expired, or revoked, as authority or identification to cash or attempts
21 to cash or otherwise negotiate or transfer a check or other order for payment
22 of money, whether or not negotiable, if said negotiation or transfer or attempt
23 to negotiate or transfer would constitute a crime under KRS 514.040 or
24 516.030; or
- 25 (d) Deposits into his account or any account, via an automated banking device, a
26 false, fictitious, forged, altered, or counterfeit check, draft, money order, or
27 any other such document not his lawful or legal property,

1 is guilty of a Class A misdemeanor, if the value of all money, goods, services, or
2 other things of value obtained in violation of this section over a six (6) month period
3 is less than five hundred dollars (\$500), a **gross misdemeanor**~~[Class D felony]~~ if
4 such value is five hundred dollars (\$500) or more but is less than **five thousand**
5 **dollars (\$5,000), a Class D felony if such value is five thousand dollars (\$5,000)**
6 **or more but is less than** ten thousand dollars (\$10,000), or a Class C felony if such
7 value is ten thousand dollars (\$10,000) or more.

8 (2) A person who receives money, goods, services, or anything else of value as a result
9 of a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any
10 other such document having been deposited into an account via an automated
11 banking device, knowing at the time of receipt of the money, goods, services, or
12 item of value that the document so deposited was false, fictitious, forged, altered, or
13 counterfeit or that the above described deposited item was not his lawful or legal
14 property, violates this subsection and is subject to the penalties set forth in
15 subsection (1) of this section.

16 (3) Knowledge of revocation shall be presumed to have been received by a cardholder
17 four (4) days after it has been mailed to him at the address set forth on the credit or
18 debit card or at his last known address by registered or certified mail, return receipt
19 requested, and, if the address is more than five hundred (500) miles from the place of
20 mailing, by air mail. If the address is located outside the United States, Puerto Rico,
21 the Virgin Islands, the Canal Zone, and Canada, notice shall be presumed to have
22 been received ten (10) days after mailing by registered or certified mail.

23 ➔Section 16. KRS 434.655 is amended to read as follows:

24 (1) A cardholder who fraudulently uses a credit or debit card to obtain money, goods,
25 services, or anything else of value after said cardholder has reported to the issuer
26 said credit or debit card lost, as stolen, or not received is deemed to have used said
27 credit or debit card in order to defraud the issuer; and said cardholder shall be guilty

1 of a Class A misdemeanor if the value of all money, goods, services, or other things
 2 of value furnished in violation of this section over a six (6) month period is less than
 3 five hundred dollars (\$500), a **gross misdemeanor**~~[Class D felony]~~ if such value is
 4 five hundred dollars (\$500) or more but is less than **five thousand dollars (\$5,000),**
 5 **a Class D felony if such value is five thousand dollars (\$5,000) or more but is less**
 6 **than** ten thousand dollars (\$10,000), or a Class C felony if such value is ten
 7 thousand dollars (\$10,000) or more.

8 (2) A cardholder who, after using a credit or debit card, fraudulently reports to the
 9 issuer that such usage or transaction was not made by said cardholder, or that said
 10 credit or debit card was lost, stolen, or not received at the time of such usage or
 11 transaction, in order to defraud the issuer, the cardholder, or any other person in
 12 connection with said usage, shall be guilty of a Class A misdemeanor if the value of
 13 all money, goods, services, or other things of value furnished in violation of this
 14 section over a six (6) month period is less than five hundred dollars (\$500), a **gross**
 15 **misdemeanor**~~[Class D felony]~~ if such value is five hundred dollars (\$500) or more
 16 but is less than **five thousand dollars (\$5,000), a Class D felony if such value is**
 17 **five thousand dollars (\$5,000) or more but is less than** ten thousand dollars
 18 (\$10,000), or a Class C felony if such value is ten thousand dollars (\$10,000) or
 19 more.

20 ➔Section 17. KRS 434.660 is amended to read as follows:

21 A person, business organization, or financial institution who is authorized by an issuer to
 22 furnish money, goods, services, or anything else of value upon presentation of a credit or
 23 debit card by a cardholder, or any agent or employee of such person, business
 24 organization, or financial institution, who, with intent to defraud the issuer, a participating
 25 party, the cardholder, or any other person, furnishes money, goods, or services or anything
 26 else of value upon presentation of a credit or debit card obtained or retained in violation of
 27 KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he

1 knows is forged, expired, or revoked is guilty of a Class A misdemeanor, if the value of all
2 money, goods, services, or other things of value furnished in violation of this section over
3 a six (6) month period is less than five hundred dollars (\$500), a **gross**
4 **misdemeanor**~~[Class D felony]~~ if such value is five hundred dollars (\$500) or more but is
5 less than **five thousand dollars (\$5,000), a Class D felony if such value is five thousand**
6 **dollars (\$5,000) or more but is less than** ten thousand dollars (\$10,000), or a Class C
7 felony if such value is ten thousand dollars (\$10,000) or more.

8 ➔Section 18. KRS 434.670 is amended to read as follows:

9 A person, business organization, or financial institution who is authorized by an issuer to
10 furnish money, goods, services, or anything else of value upon presentation of a credit or
11 debit card by a cardholder, or any agent or employee of such person, business
12 organization, or financial institution, who, with intent to defraud the issuer, a participating
13 party, the cardholder, or any other person, fails to furnish money, goods, services, or
14 anything else of value which he represents in writing to the issuer that he has furnished
15 over a six (6) month period is guilty of a Class A misdemeanor if the difference between
16 the value of all money, goods, services, or anything else of value actually furnished and the
17 value represented to the issuer to have been furnished is less than five hundred dollars
18 (\$500), a **gross misdemeanor**~~[Class D felony]~~ if such value is five hundred dollars (\$500)
19 or more but is less than **five thousand dollars (\$5,000), a Class D felony if such value is**
20 **five thousand dollars (\$5,000) or more but is less than** ten thousand dollars (\$10,000),
21 or a Class C felony if such value is ten thousand dollars (\$10,000) or more.

22 ➔Section 19. KRS 434.690 is amended to read as follows:

23 (1) A person who receives money, goods, services, or anything else of value obtained in
24 violation of KRS 434.650, knowing or believing that it was so obtained is guilty of a
25 Class A misdemeanor, if the value of all money, goods, services, and other things of
26 value received in violation of this section over a six (6) month period is less than five
27 hundred dollars (\$500), a **gross misdemeanor**~~[Class D felony]~~ if such value is five

1 hundred dollars (\$500) or more but is less than five thousand dollars (\$5,000), a
2 Class D felony if such value is five thousand dollars (\$5,000) or more but is less
3 than ten thousand dollars (\$10,000), or a Class C felony if such value is ten
4 thousand dollars (\$10,000) or more.

5 (2) A person who possesses three (3) or more tickets for airline, railroad, steamship, or
6 other transportation service, which tickets were obtained by the use of a stolen or
7 forged credit or debit card is presumed to know that such tickets were so obtained.

8 ➔Section 20. KRS 514.030 is amended to read as follows:

9 (1) Except as otherwise provided in KRS 217.181, a person is guilty of theft by
10 unlawful taking or disposition when he unlawfully:

11 (a) Takes or exercises control over movable property of another with intent to
12 deprive him thereof; or

13 (b) Obtains immovable property of another or any interest therein with intent to
14 benefit himself or another not entitled thereto.

15 (2) Theft by unlawful taking or disposition is a Class A misdemeanor unless:

16 (a) The property is a firearm (regardless of the value of the firearm), in which case
17 it is a Class D felony;

18 (b) The property is anhydrous ammonia (regardless of the value of the ammonia),
19 in which case it is a Class D felony unless it is proven that the person violated
20 this section with the intent to manufacture methamphetamine in violation of
21 KRS 218A.1432, in which case it is a Class B felony for the first offense and a
22 Class A felony for each subsequent offense;

23 (c) The property is one (1) or more controlled substances valued collectively at
24 less than ten thousand dollars (\$10,000), in which case it is a Class D felony;

25 (d) The value of the property is five hundred dollars (\$500) or more but less than
26 five thousand dollars (\$5,000), in which case it is a gross misdemeanor;

27 (e) The value of the property is five thousand dollars (\$5,000) or more but less

1 than ten thousand dollars (\$10,000), in which case it is a Class D felony;

2 ~~(f)(e)~~ The value of the property is ten thousand dollars (\$10,000) or more but
3 less than one million dollars (\$1,000,000), in which case it is a Class C felony;

4 ~~(g)(f)~~ The value of the property is one million dollars (\$1,000,000) or more but
5 less than ten million dollars (\$10,000,000), in which case it is a Class B felony;

6 or

7 ~~(h)(g)~~ The value of the property is ten million dollars (\$10,000,000) or more, in
8 which case it is a Class B felony.

9 (3) Any person convicted under subsection (2)(g) of this section shall not be released on
10 probation or parole until he or she has served at least fifty percent (50%) of the
11 sentence imposed, any statute to the contrary notwithstanding.

12 ➔Section 21. KRS 514.040 is amended to read as follows:

13 (1) A person is guilty of theft by deception when the person obtains property or services
14 of another by deception with intent to deprive the person thereof. A person deceives
15 when the person intentionally:

16 (a) Creates or reinforces a false impression, including false impressions as to law,
17 value, intention, or other state of mind;

18 (b) Prevents another from acquiring information which would affect judgment of a
19 transaction;

20 (c) Fails to correct a false impression which the deceiver previously created or
21 reinforced or which the deceiver knows to be influencing another to whom the
22 person stands in a fiduciary or confidential relationship;

23 (d) Fails to disclose a known lien, adverse claim, or other legal impediment to the
24 enjoyment of property which the person transfers or encumbers in
25 consideration for the property obtained, whether the impediment is or is not
26 valid or is or is not a matter of official record; or

27 (e) Issues or passes a check or similar sight order for the payment of money,

1 knowing that it will not be honored by the drawee.

2 (2) The term "deceive" does not, however, include falsity as to matters having no
3 pecuniary significance or puffing by statements unlikely to deceive ordinary persons
4 in the group addressed.

5 (3) Deception as to a person's intention to perform a promise shall not be inferred from
6 the fact alone that he did not subsequently perform the promise.

7 (4) For purposes of subsection (1) of this section, a maker of a check or similar sight
8 order for the payment of money is presumed to know that the check or order, other
9 than a postdated check or order, would not be paid, if:

10 (a) The maker had no account with the drawee at the time the check or order was
11 issued; or

12 (b) Payment was refused by the drawee for lack of funds, upon presentation within
13 thirty (30) days after issue, and the maker failed to make good within ten (10)
14 days after receiving notice of that refusal. Notice of the refusal may include a
15 citation to this section and a description of this section's criminal penalties and
16 shall be deemed properly addressed when mailed to the address printed or
17 written on the check or sight order or provided by the drawer or maker upon
18 issuance of the check or sight order. The notice, if mailed, shall be deemed
19 received by the addressee seven (7) days after it is placed in the United States
20 mail. The notice may be sent by first-class mail if supported by an affidavit of
21 service setting out the contents of the notice, the address to which the notice
22 was mailed, that correct postage was applied, and the date the notice was
23 placed in the United States mail. A maker makes good on a check or similar
24 sight order for the payment of money by paying to the holder the face amount
25 of the instrument, together with any merchant's posted bad check handling fee
26 not to exceed fifty dollars (\$50) and any fee imposed pursuant to subsection
27 (5) of this section.

- 1 (5) If a county attorney issues notice to a maker that a drawee has refused to honor an
 2 instrument due to a lack of funds as described in subsection (4)(b) of this section, the
 3 county attorney may charge a fee to the maker of fifty dollars (\$50), if the
 4 instrument is paid. Money paid to the county attorney pursuant to this section shall
 5 be used only for payment of county attorney office operating expenses. Excess fees
 6 held by the county attorney on June 30 of each year shall be turned over to the
 7 county treasurer before the end of the next fiscal year for use by the fiscal court of
 8 the county.
- 9 (6) A person is guilty of theft by deception when the person issues a check or similar
 10 sight order in payment of all or any part of any tax payable to the Commonwealth
 11 knowing that it will not be honored by the drawee.
- 12 (7) A person is guilty of theft by deception when the person issues a check or similar
 13 sight order in payment of all or any part of a child support obligation knowing that it
 14 will not be honored by the drawee.
- 15 (8) Theft by deception is a Class A misdemeanor unless the value of the property,
 16 service, or the amount of the check or sight order referred to in subsection (6) or (7)
 17 of this section is:
- 18 (a) Five hundred dollars (\$500) or more but less than **five thousand dollars**
 19 **(\$5,000), in which case it is a gross misdemeanor;**
- 20 **(b) Five thousand dollars (\$5,000) or more but less than** ten thousand dollars
 21 (\$10,000), in which case it is a Class D felony; or
- 22 **(c) Ten thousand dollars (\$10,000) or more, in which case it is a Class C**
 23 **felony.**
- 24 ➔Section 22. KRS 514.050 is amended to read as follows:
- 25 (1) Except as provided in KRS 365.710, a person is guilty of theft of property lost,
 26 mislaid, or delivered by mistake when:
- 27 (a) He comes into control of the property of another that he knows to have been

1 lost, mislaid, or delivered under a mistake as to the nature or amount of the
2 property or the identity of the recipient; and

3 (b) With intent to deprive the owner thereof, he fails to take reasonable measures
4 to restore the property to a person entitled to have it.

5 (2) Theft of property lost, mislaid, or delivered by mistake is a Class A misdemeanor
6 unless the value of the property is:

7 (a) Five hundred dollars (\$500) or more but less than five thousand dollars
8 (\$5,000), in which case it is a gross misdemeanor;

9 (b) Five thousand dollars (\$5,000) or more but less than ten thousand dollars
10 (\$10,000), in which case it is a Class D felony; or

11 (c)~~(b)~~ Ten thousand dollars (\$10,000) or more, in which case it is a Class C
12 felony.

13 ➔Section 23. KRS 514.060 is amended to read as follows:

14 (1) A person is guilty of theft of services when:

15 (a) The person intentionally obtains services by deception or threat or by false
16 token or other means to avoid payment for the services which he knows are
17 available only for compensation;

18 (b) The person intentionally obtains wireless communications services or access to
19 services by any of the following means:

20 1. Unauthorized interception of any electronic serial number, mobile
21 identification number, personal identification number, or like identifying
22 number;

23 2. Unauthorized interception of any cellular service or personal
24 communications service as terms may be defined in 47 C.F.R. parts 22
25 and 24 respectively;

26 3. Unauthorized interception of any similar telephone service; or

27 4. Use of deception, threat, or other means to avoid payment for the

1 services which the person knows are available only for charge or
2 compensation; or

3 (c) Having control over or unauthorized access to the use of the services of others
4 to which the person is not entitled, the person intentionally diverts the services
5 to the person's own benefit or the benefit of another not entitled thereto.

6 (2) Where compensation for services is ordinarily paid immediately upon the rendering
7 of the services, as in the case of hotels and restaurants, refusal to pay or absconding
8 without payment or offer to pay shall be prima facie evidence that the services were
9 obtained by deception as to intention to pay.

10 (3) In any prosecution for theft of gas, water, electricity, or other public service, where
11 the utility supplying the service had installed a meter or other device to record the
12 amount of service supplied, proof that:

13 (a) The meter or other device has been altered, tampered with, or bypassed in a
14 manner so as to prevent or reduce the recording thereof; or

15 (b) Service has been, after having been disconnected by the utility supplying
16 service, reconnected without authorization of the utility

17 shall be prima facie evidence of the intent to commit theft of service by the person or
18 persons obligated to pay for service supplied through the meter or other device.

19 (4) Theft of services is a Class A misdemeanor unless the value of the service is:

20 (a) Five hundred dollars (\$500) or more but less than five thousand dollars
21 (\$5,000), in which case it is a gross misdemeanor;

22 (b) Five thousand dollars (\$5,000) or more but less than ten thousand dollars
23 (\$10,000), in which case it is a Class D felony; or

24 (c) Ten thousand dollars (\$10,000) or more, in which case it is a Class C
25 felony.

26 ➔Section 24. KRS 514.070 is amended to read as follows:

27 (1) A person is guilty of theft by failure to make required disposition of property

1 received when:

- 2 (a) He obtains property upon agreement or subject to a known legal obligation to
 3 make specified payment or other disposition whether from such property or its
 4 proceeds or from his own property to be reserved in equivalent amount; and
 5 (b) He intentionally deals with the property as his own and fails to make the
 6 required payment or disposition.

7 (2) The provisions of subsection (1) apply notwithstanding that it may be impossible to
 8 identify particular property as belonging to the victim at the time of the actor's
 9 failure to make the required payment or disposition.

10 (3) An officer or employee of the government or of a financial institution is presumed:

11 (a) To know any legal obligation relevant to his criminal liability under this
 12 section; and

13 (b) To have dealt with the property as his own when:

- 14 1. He fails to account or pay upon lawful demand; or
 15 2. An audit reveals a shortage or falsification of accounts.

16 (4) Theft by failure to make required disposition of property received is a Class A
 17 misdemeanor unless the value of the property is:

18 (a) Five hundred dollars (\$500) or more but less than **five thousand dollars**
 19 **(\$5,000), in which case it is a gross misdemeanor;**

20 **(b) Five thousand dollars (\$5,000) or more but less than** ten thousand dollars
 21 (\$10,000), in which case it is a Class D felony; or

22 **(c) Ten thousand dollars (\$10,000) or more, in which case it is a Class C**
 23 **felony.**

24 (5) No person shall be convicted of theft by failure to make required disposition of
 25 property received when he or she has also been convicted of a violation of KRS
 26 522.050 arising out of the same incident.

27 ➔Section 25. KRS 514.080 is amended to read as follows:

- 1 (1) A person is guilty of theft by extortion when he intentionally obtains property of
2 another by threatening to:
- 3 (a) Inflict bodily injury on anyone or commit any other criminal offense; or
4 (b) Accuse anyone of a criminal offense; or
5 (c) Expose any secret tending to subject any person to hatred, contempt, or
6 ridicule, or to impair his credit or business repute; or
7 (d) Use wrongfully his position as a public officer or servant or employee by
8 performing some act within or related to his official duties, either expressed or
9 implied, or by refusing or omitting to perform an official duty, either expressed
10 or implied, in a manner affecting some person adversely; or
11 (e) Bring about or continue a strike, boycott, or other collective unofficial action,
12 if the property is not demanded or received for the benefit of the group in
13 whose interest the actor purports to act; or
14 (f) Testify or provide information or withhold testimony or information with
15 respect to another's legal claim or defense.
- 16 (2) It is a defense to prosecution based on subsection (1)(b), (c), or (d) that the property
17 obtained by threat of accusation, exposure, lawsuit, or other invocation of official
18 action was claimed as restitution or indemnification for harm done in the
19 circumstances to which accusation, exposure, lawsuit, or other official action relates,
20 or as compensation for property or lawful services.
- 21 (3) Theft by extortion is a Class A misdemeanor unless the value of the property
22 obtained is:
- 23 (a) Five hundred dollars (\$500) or more but less than **five thousand dollars**
24 **(\$5,000), in which case it is a gross misdemeanor;**
25 **(b) Five thousand dollars (\$5,000) or more but less than** ten thousand dollars
26 (\$10,000), in which case it is a Class D felony; or
27 **(c) Ten thousand dollars (\$10,000) or more, in which case it is a Class C**

1 felony.

2 ➔Section 26. KRS 514.090 is amended to read as follows:

- 3 (1) A person is guilty of theft of labor already rendered when, in payment of labor
4 already rendered by another, he intentionally issues or passes a check or similar sight
5 order for the payment of money, knowing that it will not be honored by the drawee.
- 6 (2) For purposes of subsection (1) of this section, an issuer of a check or similar sight
7 order for the payment of money is presumed to know that the check or order, other
8 than a postdated check or order, would not be paid, if:
- 9 (a) The issuer had no account with the drawee at the time the check or order was
10 issued; or
- 11 (b) Payment was refused by the drawee for lack of funds, upon presentation within
12 thirty days (30) after issue, and the issuer failed to make good within ten (10)
13 days after receiving notice of that refusal.
- 14 (3) Theft of labor already rendered is a Class A misdemeanor unless the value of the
15 labor rendered is:
- 16 (a) Five hundred dollars (\$500) or more but less than **five thousand dollars**
17 **(\$5,000), in which case it is a gross misdemeanor;**
- 18 **(b) Five thousand dollars (\$5,000) or more but less than** ten thousand dollars
19 **(\$10,000), in which case it is a Class D felony; or**
- 20 **(c) Ten thousand dollars (\$10,000) or more, in which case it is a Class C**
21 **felony.**

22 ➔Section 27. KRS 514.110 is amended to read as follows:

- 23 (1) A person is guilty of receiving stolen property when he receives, retains, or disposes
24 of movable property of another knowing that it has been stolen, or having reason to
25 believe that it has been stolen, unless the property is received, retained, or disposed
26 of with intent to restore it to the owner.
- 27 (2) The possession by any person of any recently stolen movable property shall be prima

1 facie evidence that such person knew such property was stolen.

2 (3) Receiving stolen property is a Class A misdemeanor unless:

3 (a) The value of the property is five hundred dollars (\$500) or more but less than

4 *five thousand dollars (\$5,000), in which case it is a gross misdemeanor;*

5 **(b) The value of the property is five thousand dollars (\$5,000) or more but less**

6 **than** ten thousand dollars (\$10,000), in which case it is a Class D felony;

7 ~~(c)~~~~(b)~~ The value of the property is ten thousand dollars (\$10,000) or more, in

8 which case it is a Class C felony;

9 ~~(d)~~~~(e)~~ The property is a firearm, regardless of the value of the firearm, in which

10 case it is a Class D felony; or

11 ~~(e)~~~~(d)~~ The property is anhydrous ammonia, regardless of the value of the

12 ammonia, in which case it is a Class D felony unless it is proven that the person

13 violated this section with the intent to manufacture methamphetamine in

14 violation of KRS 218A.1432, in which case it is a Class B felony for the first

15 offense and a Class A felony for each subsequent offense.

16 ➔Section 28. KRS 514.120 is amended to read as follows:

17 (1) A person is guilty of obscuring the identity of a machine or other property when he

18 or she:

19 (a) Removes, defaces, covers, alters, destroys, or otherwise obscures the

20 manufacturer's serial number or any other distinguishing identification number

21 or mark, including property marked with a Social Security number or motor

22 vehicle operator's license number for identification purposes, upon any

23 automobile or other propelled vehicle, machine, or electrical or mechanical

24 device, or other property, including any part thereof, with intent to render it or

25 other property unidentifiable; or

26 (b) Possesses any automobile or other propelled vehicle, machine, or electrical or

27 mechanical device, or other property, including any part thereof, knowing that

1 the serial number or other identification number or mark, including property
2 marked with a Social Security number for identification purposes, has been
3 removed, defaced, covered, altered, destroyed, or otherwise obscured.

4 (2) Possession of any automobile or other propelled vehicle, machine, or electrical or
5 mechanical device, or other property, including any part thereof, on which the serial
6 number or any other distinguishing identification number or mark, including property
7 marked with a Social Security number or motor vehicle operator's license number
8 for identification purposes, has been removed, defaced, covered, altered, destroyed,
9 or otherwise obscured is prima facie evidence of knowledge of that fact.

10 (3) A person in possession of any property which is otherwise in violation of this section
11 may apply in writing to the Department of Kentucky State Police, through any law
12 enforcement agency in the county of his or her residence, for assignment of a
13 number for the property providing he or she can show that he or she is the lawful
14 owner of the property pursuant to the provisions of this section and KRS 16.200 and
15 500.090. If a number is issued in conformity with the provisions of this section and
16 KRS 16.200 and 500.090, then the person to whom it was issued and any person to
17 whom the property is lawfully disposed of shall not be in violation of these sections.
18 A person lawfully holding a certification issued pursuant to KRS 500.090 shall also
19 be deemed in compliance with this section. This section shall apply only when the
20 application has been filed by the defendant prior to arrest or authorization of a
21 warrant of arrest for the defendant by a court.

22 (4) Obscuring the identity of a machine or other property is a Class A misdemeanor
23 unless the value of the property is:

24 (a) Five hundred dollars (\$500) or more but less than five thousand dollars
25 (\$5,000), in which case it is a gross misdemeanor;

26 (b) Five thousand dollars (\$5,000) or more but less than ten thousand dollars
27 (\$10,000), in which case it is a Class D felony; or

1 ~~(c)~~~~(b)~~ Ten thousand dollars (\$10,000) or more, in which case it is a Class C
 2 felony.

3 ➔Section 29. KRS 516.030 is amended to read as follows:

4 (1) A person is guilty of forgery in the second degree when, with intent to defraud,
 5 deceive or injure another, he falsely makes, completes or alters a written instrument,
 6 or in the commission of a human trafficking offense as described in KRS 529.100 or
 7 529.110, coerces another person to falsely make, complete, or alter a written
 8 instrument, which is or purports to be or which is calculated to become or to
 9 represent when completed:

10 (a) A deed, will, codicil, contract, assignment, commercial instrument, credit card
 11 or other instrument which does or may evidence, create, transfer, terminate or
 12 otherwise affect a legal right, interest, obligation or status; or

13 (b) A public record or an instrument filed or required or authorized by law to be
 14 filed in or with a public office or public employee; or

15 (c) A written instrument officially issued or created by a public office, public
 16 employee or governmental agency.

17 (2) Forgery in the second degree is a **gross misdemeanor unless the value sought to be**
 18 **gained through the forgery is five hundred dollars (\$500) or more, in which case**
 19 **it is a** Class D felony.

20 ➔Section 30. KRS 516.060 is amended to read as follows:

21 (1) A person is guilty of criminal possession of a forged instrument in the second degree
 22 when, with knowledge that it is forged and with intent to defraud, deceive or injure
 23 another, he utters or possesses any forged instrument of a kind specified in KRS
 24 516.030.

25 (2) Criminal possession of a forged instrument in the second degree is a **gross**
 26 **misdemeanor unless the value sought to be gained through the forgery is five**
 27 **hundred dollars (\$500) or more, in which case it is a** Class D felony.

1 ➔Section 31. KRS 517.060 is amended to read as follows:

- 2 (1) A person is guilty of defrauding secured creditors when he destroys, damages,
3 removes, conceals, encumbers, transfers, or otherwise deals with property subject to
4 a security interest with intent either to lower the value of the secured interest or
5 unlawfully to hinder enforcement of that interest.
- 6 (2) Defrauding secured creditors is a Class A misdemeanor unless the value of the
7 property subject to the security interest is:
- 8 (a) Five hundred dollars (\$500) or more but less than five thousand dollars
9 (\$5,000), in which case it is a gross misdemeanor;
- 10 **(b) Five thousand dollars (\$5,000) or more but less than**~~up to~~ ten thousand
11 dollars (\$10,000), in which case it is a Class D felony; or
- 12 **(c)**~~(b)~~ Ten thousand dollars (\$10,000) or more, in which case it is a Class C
13 felony.

14 ➔Section 32. KRS 520.050 is amended to read as follows:

- 15 (1) A person is guilty of promoting contraband in the first degree when:
- 16 (a) He knowingly introduces dangerous contraband into a detention facility or a
17 penitentiary; or
- 18 (b) Being a person confined in a detention facility or a penitentiary, he knowingly
19 makes, obtains, or possesses dangerous contraband.
- 20 (2) Promoting contraband in the first degree is a gross misdemeanor~~[Class D felony]~~.

21 ➔Section 33. KRS 524.100 is amended to read as follows:

- 22 (1) A person is guilty of tampering with physical evidence when, believing that an
23 official proceeding is pending or may be instituted, he:
- 24 (a) Destroys, mutilates, conceals, removes or alters physical evidence which he
25 believes is about to be produced or used in the official proceeding with intent
26 to impair its verity or availability in the official proceeding; or
- 27 (b) Fabricates any physical evidence with intent that it be introduced in the official

1 proceeding or offers any physical evidence, knowing it to be fabricated or
2 altered.

3 (2) Tampering with physical evidence is a gross misdemeanor~~[Class D felony]~~.

4 ➔Section 34. KRS 530.050 is amended to read as follows:

5 (1) A person is guilty of nonsupport:

6 (a) When he or she persistently fails to provide support which he or she can
7 reasonably provide and which he or she knows he or she has a duty to provide
8 to a minor or to a child adjudged mentally disabled, indigent spouse or indigent
9 parent; or

10 (b) Upon a finding that a defendant obligor, subject to court order to pay any
11 amount for the support of a minor child, is delinquent in meeting the full
12 obligation established by such order and has been so delinquent for a period of
13 at least two (2) months duration.

14 (2) A person is guilty of flagrant nonsupport when he or she persistently fails to provide
15 support which he or she can reasonably provide and which he or she knows he or
16 she has a duty to provide by virtue of a court or administrative order to a minor or
17 to a child adjudged mentally disabled, indigent spouse or indigent parent and the
18 failure results in:

19 (a) An arrearage of not less than one thousand dollars (\$1,000); or

20 (b) Six (6) consecutive months without payment of support; or

21 (c) The dependent having been placed in destitute circumstances. For the purposes
22 of this paragraph, it shall be prima facie evidence that a dependent has been
23 placed in destitute circumstances if the dependent is a recipient of public
24 assistance as defined in KRS 205.010.

25 (3) A person has a duty to provide support for an indigent spouse, a minor child or
26 children, or a child or children adjudged mentally disabled and, for purposes of this
27 section, is presumed to know of that duty.

1 (4) Any person who is eighteen (18) years of age or over, residing in this state and
 2 having in this state a parent who is destitute of means of subsistence and unable
 3 because of old age, infirmity, or illness to support himself or herself, has a duty to
 4 provide support for such parent and, for purposes of this section, is presumed to
 5 know of that duty.

6 (5) Nonsupport is a Class A misdemeanor. For a second offense, the person shall receive
 7 a minimum sentence of seven (7) days in jail. For a third or any subsequent offense,
 8 the person shall receive a minimum sentence of thirty (30) days in jail.

9 (6) Flagrant nonsupport is a **gross misdemeanor, unless the arrearage is five thousand**
 10 **dollars (\$5,000) or more, in which case it is a** Class D felony.

11 ➔Section 35. KRS 431.062 is amended to read as follows:

12 (1) No person shall be detained in jail prior to trial for any offense defined in KRS
 13 ~~{431.060, }500.080{, }~~ or 532.020 as a violation unless:

14 (a) He has previously failed to make a court appearance required in connection
 15 therewith; or

16 (b) Is a fugitive from justice.

17 (2) This section shall not apply to the offenses listed in KRS 431.015 or 222.202.

18 ➔Section 36. The following KRS section is repealed:

19 431.060 Felonies, misdemeanors and violations defined.