

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 441.055 is amended to read as follows:

4 (1) The Department of Corrections shall for those counties which elect to house state  
5 prisoners in their jail:

6 (a) Adopt the recommendations of the Jail Standards Commission created  
7 pursuant to Executive Order Number 81-1026 and promulgate regulations  
8 pursuant to KRS Chapter 13A establishing minimum standards for jails.  
9 These standards shall include, but not be limited to, rules governing the  
10 following areas:

- 11 1. Health and safety conditions;
- 12 2. Fire safety;
- 13 3. Jail operations, recordkeeping, and administration;
- 14 4. Curriculum of basic and continuing annual training for jailers and jail  
15 personnel;
- 16 5. Custody, care, and treatment of prisoners;
- 17 6. Medical care; and
- 18 7. Jail equipment, renovation, and construction;

19 (b) Develop a jail standards review process, which shall include the participation  
20 of persons knowledgeable of jail operations to review and amend the  
21 standards as necessary. The jail standards shall be reviewed no later than  
22 December 31, 1992, and at least every two (2) years thereafter. Fifty percent  
23 (50%) of the participants in the review process shall be appointed from  
24 persons representing county interests and fifty percent (50%) shall be  
25 appointed from persons representing state interests; and

26 (c) Provide technical assistance and consultation to local governments in order to  
27 facilitate compliance with standards.

1 (2) The department shall, for those counties that elect not to hold state prisoners in their  
 2 jails, adopt the recommendations of the Jail Standards Commission and promulgate  
 3 administrative regulations pursuant to KRS Chapter 13A to establish minimum  
 4 standards for those jails. These standards shall be limited to health and life safety.

5 (3) All minimum standards promulgated by the department applying to jails shall  
 6 include requirements for adequate nutrition for pregnant prisoners, an adequate  
 7 number of hygiene products for female prisoners, and an appropriate number of  
 8 undergarments for female prisoners.

9 (4) The department may establish classifications of jails based on the maximum  
 10 permissible period of incarceration or other criteria and promulgate standards for  
 11 each class of jail.

12 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO  
 13 READ AS FOLLOWS:

14 (1) Except as provided in subsection (2) of this section, an inmate housed in a jail,  
 15 penitentiary, or local or state correctional or detention facility, residential center,  
 16 or reentry center who is known to be pregnant shall be restrained solely with  
 17 handcuffs in front of her body unless further restraint is required to protect  
 18 herself or others.

19 (2) No inmate shall be shackled or otherwise restrained while giving birth.

20 ➔Section 3. KRS 197.020 is amended to read as follows:

21 (1) The Department of Corrections shall:

22 (a) Promulgate administrative regulations for the government and discipline of  
 23 the penitentiary, for the government and official conduct of all officials  
 24 connected with the penitentiary, and for the government of the prisoners in  
 25 their department and conduct;

26 (b) Promulgate administrative regulations for the character of food and diet of the  
 27 prisoners; the preservation of the health of the prisoners; the daily cleansing of

1 the penitentiary; the cleanliness of the persons of the prisoners; the general  
2 sanitary government of the penitentiary and prisoners; the character of the  
3 labor; the quantity of food and clothing; and the length of time during which  
4 the prisoners shall be employed daily;

5 (c) Promulgate administrative regulations, as the department deems necessary, for  
6 the disposition of abandoned, lost, or confiscated property of prisoners;

7 (d) Promulgate administrative regulations for the administration of a validated  
8 risk and needs assessment to assess the criminal risk factors and correctional  
9 needs of all inmates upon commitment to the department;

10 **(e) Promulgate administrative regulations to create a certification process for**  
11 **county jails that may house female state inmates. The administrative**  
12 **regulations shall include a requirement of a physical barrier between male**  
13 **and female inmates;** and

14 ~~(f)(e)~~ Cause the administrative regulations promulgated by the department,  
15 together with the law allowing commutation of time to prisoners for good  
16 conduct, to be printed and posted in conspicuous places in the cell houses and  
17 workshops.

18 (2) The department may impose a reasonable fee for the use of medical facilities by a  
19 prisoner who has the ability to pay for the medical and dental care. These funds may  
20 be deducted from the prisoner's inmate account. A prisoner shall not be denied  
21 medical or dental treatment because he has insufficient funds in his inmate account.

22 (3) The department may promulgate administrative regulations in accordance with KRS  
23 Chapter 13A to implement a program that provides for reimbursement of telehealth  
24 consultations.

25 (4) Fees for the use of medical facilities by a state prisoner who is confined in a county  
26 jail pursuant to KRS 532.100 or other statute shall be governed by KRS 441.045.

27 ➔Section 4. KRS 532.100 is amended to read as follows:

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

1 in a county jail in a county in which the fiscal court has agreed to house  
2 state prisoners if:

- 3 a. Beds are available in the county jail;  
4 b. State facilities are at capacity; and  
5 c. Halfway house beds are being utilized at the contract level as of  
6 July 15, 2000.

7 2. When an indeterminate sentence of two (2) years or more is imposed on  
8 a felon convicted of a sex crime, as defined in KRS 17.500, or any  
9 similar offense in another jurisdiction, the sentence shall be served in a  
10 state institution.

11 3. Counties choosing not to comply with the provisions of this paragraph  
12 shall be granted a waiver by the commissioner of the Department of  
13 Corrections.

14 (d) Any jail that houses state inmates under this subsection shall offer programs  
15 as recommended by the Jail Standards Commission. The Department of  
16 Corrections shall adopt the recommendations of the Jail Standards  
17 Commission and promulgate administrative regulations establishing required  
18 programs for a jail that houses state inmates under this subsection.

19 **(e) Before housing any female state inmate, a county jail shall be certified**  
20 **pursuant to Section 3 of this Act.**

21 (5) The jailer of a county in which a Class D felon or a Class C felon is incarcerated  
22 may request the commissioner of the Department of Corrections to incarcerate the  
23 felon in a state corrections institution if the jailer has reasons to believe that the  
24 felon is an escape risk, a danger to himself or other inmates, an extreme security  
25 risk, or needs protective custody beyond that which can be provided in a county jail.  
26 The commissioner of the Department of Corrections shall evaluate the request and  
27 transfer the inmate if he deems it necessary. If the commissioner refuses to accept

1 the felon inmate, and the Circuit Judge of the county that has jurisdiction of the  
2 offense charged is of the opinion that the felon cannot be safely kept in a county  
3 jail, the Circuit Judge, with the consent of the Governor, may order the felon  
4 transferred to the custody of the Department of Corrections.

5 (6) Class D felons and Class C felons serving their time in a local jail shall be  
6 considered state prisoners, and the Department of Corrections shall pay the jail in  
7 which the prisoner is incarcerated a per diem amount determined according to KRS  
8 431.215(2). For other state prisoners and parole violator prisoners, the per diem  
9 payments shall also begin on the date prescribed in KRS 431.215(2).

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

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

17 (b) The authority to release an inmate to work under this subsection may be  
18 exercised at any time during the inmate's sentence, including the period when  
19 the court has concurrent authority to permit work release pursuant to KRS  
20 439.265.

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

1 program or work release participation.

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

- 3 1. Is not eligible for work release pursuant to KRS 197.140;
- 4 2. Has a maximum or close security classification as defined by  
5 administrative regulations promulgated by the Department of  
6 Corrections;
- 7 3. Is subject to the provisions of KRS 532.043; or
- 8 4. Is in a reentry center as defined in KRS 441.005.

9 ➔Section 5. Section 4 of this Act takes effect January 1, 2019.

10 ➔Section 6. KRS 403.725 is amended to read as follows:

11 (1) A petition for an order of protection may be filed by:

- 12 (a) A victim of domestic violence and abuse; or
- 13 (b) An adult on behalf of a victim who is a minor otherwise qualifying for relief  
14 under this subsection.

15 (2) The petition may be filed in the victim's county of residence or a county where the  
16 victim has fled to escape domestic violence and abuse.

17 (3) The petition shall be verified and contain:

- 18 (a) The name, age, address, occupation, residence, and school or postsecondary  
19 institution of the petitioner;
- 20 (b) The name, age, address, occupation, residence, and school or postsecondary  
21 institution of the person or persons who have engaged in the alleged act or  
22 acts complained of in the petition;
- 23 (c) The facts and circumstances which constitute the basis for the petition;
- 24 (d) The date and place of the marriage of the parties, if applicable; and
- 25 (e) The names, ages, and addresses of the petitioner's minor children, if  
26 applicable.

27 (4) The petition shall be filed on forms prescribed by the Administrative Office of the

1 Courts and provided to the person seeking relief by the circuit clerk or by another  
2 individual authorized by the court to provide and verify petitions in emergency  
3 situations, such as law enforcement officers, ~~and~~ Commonwealth's or county  
4 attorneys, and regional rape crisis centers or domestic violence shelters.

5 (5) All petitions requested, completed, and signed by persons seeking protection under  
6 this chapter shall be accepted and filed with the court.

7 (6) (a) Jurisdiction over petitions filed under this chapter shall be concurrent between  
8 the District Court and Circuit Court and a petition may be filed by a petitioner  
9 in either court, except that a petition shall be filed in a family court if one has  
10 been established in the county where the petition is filed.

11 (b) The Court of Justice shall provide a protocol for twenty-four (24) hour access  
12 to orders of protection in each county with any protocol, whether statewide or  
13 local, being subject to Supreme Court review and approval of the initial  
14 protocol and any subsequent amendments. This protocol may allow for  
15 petitions to be filed in or transferred to a court other than those specified in  
16 paragraph (a) of this subsection.

17 (c) The Court of Justice may authorize by rule that petitions in a specific county  
18 be filed in accordance with a supplemental jurisdictional protocol adopted for  
19 that county. This protocol may provide for petitions to be filed in or  
20 transferred to a court other than those specified in paragraph (a) of this  
21 subsection.

22 (d) 1. In addition to the protocols for twenty-four (24) hour access  
23 established under paragraphs (b) and (c) of this subsection, before  
24 January 1, 2019, the Court of Justice shall provide protocols for  
25 twenty-four (24) hour access to electronic filing of petitions for orders  
26 of protection provided by regional rape crisis centers designated under  
27 KRS 211.600, or regional domestic violence shelters designated under



1                    **KRS 209A.045.**

2                    **2. These protocols shall be subject to Supreme Court review for approval**  
3                    **of the initial protocol and any subsequent amendments.**

4        (7) Any judge to whom a petition is referred under subsection (6) of this section shall  
5            have full authority to review and hear a petition and subsequently grant and enforce  
6            an order of protection.

7        (8) If the judge of a court in which there is a pending request for modification or  
8            enforcement of an existing order of protection is unavailable or unable to act within  
9            a reasonable time, the proceedings may be conducted by any judge of the county in  
10           accordance with court rules.

11        ➔Section 7. KRS 456.030 is amended to read as follows:

12        (1) A petition for an interpersonal protective order may be filed by:

13            (a) A victim of dating violence and abuse;

14            (b) A victim of stalking;

15            (c) A victim of sexual assault; or

16            (d) An adult on behalf of a victim who is a minor otherwise qualifying for relief  
17            under this subsection.

18        (2) The petition may be filed in the victim's county of residence or a county where the  
19            victim has fled to escape dating violence and abuse, stalking, or sexual assault.

20        (3) The petition shall be verified and contain:

21            (a) The name, age, address, occupation, residence, and school or postsecondary  
22            institution of the petitioner;

23            (b) The name, age, address, occupation, residence, and school or postsecondary  
24            institution of the person or persons who have engaged in the alleged act or  
25            acts complained of in the petition;

26            (c) The facts and circumstances which constitute the basis for the petition; and

27            (d) The names, ages, and addresses of the petitioner's minor children, if

1 applicable.

2 (4) The petition shall be filed on forms prescribed by the Administrative Office of the  
3 Courts and provided to the person seeking relief by the circuit clerk or by another  
4 individual authorized by the court to provide and verify petitions in emergency  
5 situations, such as law enforcement officers, ~~and~~ Commonwealth's or county  
6 attorneys, **and regional rape crisis centers or domestic violence shelters.**

7 (5) All petitions requested, completed, and signed by persons seeking protection under  
8 this chapter shall be accepted and filed with the court.

9 (6) (a) Jurisdiction over petitions filed under this chapter shall be concurrent between  
10 the District Court and Circuit Court.

11 (b) The Court of Justice shall provide a protocol for twenty-four (24) hour access  
12 to interpersonal protective orders in each county with any protocol, whether  
13 statewide or local, being subject to Supreme Court review and approval of the  
14 initial protocol and any subsequent amendments. This protocol may allow for  
15 petitions to be filed in or transferred to a court other than those specified in  
16 paragraph (a) of this subsection.

17 (c) The Court of Justice may authorize by rule that petitions in a specific county  
18 be filed in accordance with a supplemental jurisdictional protocol adopted for  
19 that county. This protocol may provide for petitions to be filed in or  
20 transferred to a court other than those specified in paragraph (a) of this  
21 subsection.

22 **(d) 1. In addition to the protocols for twenty-four (24) hour access**  
23 **established under paragraphs (b) and (c) of this subsection, before**  
24 **January 1, 2019, the Court of Justice shall provide protocols for**  
25 **twenty-four (24) hour access to electronic filing of petitions for orders**  
26 **of protection provided by regional rape crisis centers designated under**  
27 **KRS 211.600, or regional domestic violence shelters designated under**

1                    **KRS 209A.045.**

2                    **2. These protocols shall be subject to Supreme Court review for approval**  
 3                    **of the initial protocol and any subsequent amendments.**

4 (7) Any judge to whom a petition is referred under subsection (6) of this section shall  
 5 have full authority to review and hear a petition and subsequently grant and enforce  
 6 an interpersonal protective order.

7 (8) If the judge of a court in which there is a pending request for modification or  
 8 enforcement of an existing order of protection is unavailable or unable to act within  
 9 a reasonable time, the proceedings may be conducted by any judge of the county in  
 10 accordance with court rules.

11            ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO  
 12 READ AS FOLLOWS:

13 **(1) As used in this section:**

14            **(a) "Offender" means a person who is being held in custody, incarcerated,**  
 15            **supervised, evaluated, or treated by a supervising entity; and**

16            **(b) "Supervising entity" means:**

17                    **1. The Department of Corrections;**

18                    **2. The Department of Juvenile Justice;**

19                    **3. A detention facility as defined in KRS 520.010; or**

20                    **4. An entity under contract with either department or a detention facility**  
 21                    **for the custody, incarceration, supervision, evaluation, or treatment of**  
 22                    **offenders.**

23 **(2) When an offender alleges a violation of KRS Chapter 510 by a jailer or any**  
 24 **employee, contractor, vendor, or volunteer of a supervising entity, the supervising**  
 25 **entity shall report the allegation to the Attorney General within one (1) business**  
 26 **day of learning of the allegation.**

27 **(3) The Attorney General shall conduct an investigation into the allegation,**

1 independent of any investigation by the supervising entity. Within ninety (90)  
 2 days of receiving the allegation, the Attorney General shall make a written report  
 3 regarding the results of the investigation to:

4 (a) The supervising entity; and

5 (b) If a criminal prosecution is warranted, the county attorney or  
 6 Commonwealth's attorney with jurisdiction in the case.

7 (4) This section shall not be deemed to limit or to prohibit the investigation or  
 8 prosecution of violations of law by other appropriate authorities.

9 (5) When requested by the Attorney General, all supervising entities, county  
 10 attorneys, Commonwealth's attorneys, and peace officers shall give all possible  
 11 assistance to the Attorney General to perform these duties.

12 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO  
 13 READ AS FOLLOWS:

14 (1) As used in this section:

15 (a) "Eligible person" means a person who is:

16 1. A pregnant woman;

17 2. Reasonably believed by a court or the department to have a substance  
 18 use disorder;

19 3. Not charged or convicted of an offense that would qualify the person  
 20 as a violent offender under KRS 439.3401; and

21 4. Not charged or convicted of an offense under KRS Chapter 510, KRS  
 22 529.100 involving commercial sexual activity, KRS 530.020,  
 23 530.064(1)(a), 531.310, or 531.320; and

24 (b) "Pregnancy release conditions" means conditions of release set by a court  
 25 or the department for eligible persons which shall include:

26 1. Completing inpatient residential or intensive outpatient treatment for  
 27 substance use disorders;

- 1           2. Not being charged with a new local, state, or federal misdemeanor or  
2           felony offense;  
3           3. If not yet sentenced, appearing for all required court appearances;  
4           and  
5           4. If not yet sentenced, avoiding all contact with any alleged victim and  
6           any potential witness who may testify concerning the charge, unless or  
7           until the court removes this condition.

8 (2) Notwithstanding any other statute to the contrary, when an eligible person is  
9 charged or convicted of any violation of KRS Chapter 218A, the person shall be  
10 released from custody upon her own recognizance so long as the person  
11 successfully meets the pregnancy release conditions. If the pregnancy release  
12 conditions are violated, the eligible person shall be returned to custody to await  
13 sentencing or to serve the sentence for the original conviction under KRS  
14 Chapter 218A as well as the sentence for any subsequent charges or convictions,  
15 if any.

16 ➔Section 10. KRS 431.517 is amended to read as follows:

17 (1) Except as provided in this section, home incarceration may be ordered as a form of  
18 pretrial release, subject to the conditions imposed by the provisions of KRS 532.200  
19 to 532.250.

20 (2) No defendant charged with an offense under KRS Chapter 507 may be released  
21 on home incarceration unless the court makes a finding that the defendant would  
22 not pose a threat to society.

23 (3) A court ordering home incarceration as a form of pretrial release pursuant to this  
24 section may order the defendant to participate in a global positioning monitoring  
25 system program during all or part of the time of pretrial release through the use of a  
26 county-operated program pursuant to KRS 67.372 and 67.374 and not a program  
27 operated by the Department of Corrections pursuant to KRS 532.210 to 532.250.

1 ~~(4)~~~~(3)~~ A court ordering global positioning monitoring system program participation  
2 for a defendant pursuant to this section shall:

3 (a) Require the defendant to pay all or the part of the monitoring costs based on  
4 the sliding scale adopted by the Supreme Court of Kentucky as specified in  
5 KRS 403.761 and administrative costs for participating in the system;

6 (b) Provide the monitoring system with a written or electronic copy of the  
7 conditions of release; and

8 (c) Provide the monitoring system with a contact at the office of the circuit clerk,  
9 Commonwealth's attorney, or county attorney, as appropriate, or pretrial  
10 release services for reporting violations of the monitoring order.

11 ~~(5)~~~~(4)~~ A person, county, or other organization may voluntarily agree to pay all or a  
12 portion of a defendant's monitoring costs specified in KRS 403.761.

13 ➔Section 11. KRS 434.650 is amended to read as follows:

14 (1) (a) A person who, with intent to defraud the issuer, a participating party, a person,  
15 or organization providing money, goods, services, or anything else of value, or  
16 any other person:

17 1.~~(a)~~ Uses for the purpose of obtaining money, goods, services, or  
18 anything else of value a credit or debit card obtained or retained in  
19 violation of KRS 434.570 to 434.650, or any of such sections, or a credit  
20 or debit card which he knows is forged, expired, or revoked; or

21 2.~~(b)~~ Obtains money, goods, services, or anything else of value by  
22 representing without consent of the cardholder that he is the holder of a  
23 specified card or by representing that he is the holder of a card and such  
24 card has not in fact been issued; or

25 3.~~(c)~~ Uses a credit or debit card obtained or retained in violation of KRS  
26 434.570 to 434.650, or any of such sections, or a credit or debit card  
27 which he knows is forged, expired, or revoked, as authority or

1 identification to cash or attempts to cash or otherwise negotiate or  
 2 transfer a check or other order for payment of money, whether or not  
 3 negotiable, if said negotiation or transfer or attempt to negotiate or  
 4 transfer would constitute a crime under KRS 514.040 or 516.030; or

5 ~~4. (d)~~ Deposits into his account or any account, via an automated  
 6 banking device, a false, fictitious, forged, altered, or counterfeit check,  
 7 draft, money order, or any other such document not his lawful or legal  
 8 property,

9 is guilty of fraudulent use under this section.

10 (b) Fraudulent use under this section ~~[of a Class A misdemeanor, if the value]~~ of  
 11 all money, goods, services, or other things of value obtained in violation of  
 12 this section over a six (6) month period is:

13 1. A Class A misdemeanor if the value is less than one thousand ~~[five~~  
 14 ~~hundred]~~ dollars (\$1,000) ~~[(500)]~~, unless the person has been  
 15 convicted two (2) or more times in the previous two (2) years of  
 16 fraudulent use under this section, in which case the value is less than  
 17 five hundred dollars (\$500);

18 2. A Class D felony if the ~~[such]~~ value is one thousand ~~[five hundred]~~  
 19 dollars (\$1,000) ~~[(500)]~~ or more but is less than ten thousand dollars  
 20 (\$10,000), unless the person has been convicted two (2) or more times  
 21 in the previous two (2) years of fraudulent use under this section, in  
 22 which case the value is five hundred dollars (\$500) or more but is less  
 23 than ten thousand dollars (\$10,000); ~~[;]~~ or

24 3. A Class C felony if the ~~[such]~~ value is ten thousand dollars (\$10,000) or  
 25 more.

26 (2) A person who receives money, goods, services, or anything else of value as a result  
 27 of a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any

1 other such document having been deposited into an account via an automated  
 2 banking device, knowing at the time of receipt of the money, goods, services, or  
 3 item of value that the document so deposited was false, fictitious, forged, altered, or  
 4 counterfeit or that the above described deposited item was not his lawful or legal  
 5 property, violates this subsection and is subject to the penalties set forth in  
 6 subsection (1) of this section.

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

14 ➔Section 12. KRS 434.655 is amended to read as follows:

- 15 (1) (a) A cardholder who fraudulently uses a credit or debit card to obtain money,  
 16 goods, services, or anything else of value after said cardholder has reported to  
 17 the issuer said credit or debit card lost, as stolen, or not received is deemed to  
 18 have used said credit or debit card in order to defraud the issuer; and said  
 19 cardholder shall be guilty of fraudulent use of a credit or debit card.

20 (b) Fraudulent use of a credit or debit card~~[a Class A misdemeanor if the value]~~  
 21 of all money, goods, services, or other things of value furnished in violation of  
 22 this subsection~~[section]~~ over a six (6) month period is:

- 23 1. A Class A misdemeanor if the value is less than one thousand~~[five~~  
 24 ~~hundred]~~ dollars (\$1,000)~~[\$500]~~, unless the person has been  
 25 convicted two (2) or more times in the previous two (2) years of  
 26 fraudulent use of a credit or debit card, in which case the value is less  
 27 than five hundred dollars (\$500);



1           **2.** A Class D felony if ~~the~~<sup>[such]</sup> value is one thousand~~[five hundred]~~  
2           dollars (\$1,000)~~[(500)]~~ or more but is less than ten thousand dollars  
3           (\$10,000), unless the person has been convicted two (2) or more times  
4           in the previous two (2) years of fraudulent use of a credit or debit card,  
5           in which case the value is five hundred dollars (\$500) or more but is  
6           less than ten thousand dollars (\$10,000); or

7           **3.** A Class C felony if such value is ten thousand dollars (\$10,000) or  
8           more.

9       (2) **(a)** A cardholder who, after using a credit or debit card, fraudulently reports to the  
10           issuer that such usage or transaction was not made by said cardholder, or that  
11           said credit or debit card was lost, stolen, or not received at the time of such  
12           usage or transaction, in order to defraud the issuer, the cardholder, or any  
13           other person in connection with said usage, shall be guilty of fraudulent  
14           report of a credit or debit card.

15       **(b)** Fraudulent report of a credit or debit card~~[a Class A misdemeanor if the~~  
16           ~~value]~~ of all money, goods, services, or other things of value furnished in  
17           violation of this subsection~~[section]~~ over a six (6) month period is:

18           **1.** A Class A misdemeanor if the value is less than one thousand~~[five~~  
19           ~~hundred]~~ dollars (\$1,000)~~[(500)]~~, unless the person has been  
20           convicted two (2) or more times in the previous two (2) years of  
21           fraudulent report of a credit or debit card, in which case the value is  
22           less than five hundred dollars (\$500);

23           **2.** A Class D felony if such value is one thousand~~[five hundred]~~ dollars  
24           (\$1,000)~~[(500)]~~ or more but is less than ten thousand dollars (\$10,000),  
25           unless the person has been convicted two (2) or more times in the  
26           previous two (2) years of fraudulent report of a credit or debit card, in  
27           which case the value is five hundred dollars (\$500) or more but is less

1 than ten thousand dollars (\$10,000); or

2 3. A Class C felony if such value is ten thousand dollars (\$10,000) or  
3 more.

4 ➔Section 13. KRS 434.660 is amended to read as follows:

5 (1) A person, business organization, or financial institution who is authorized by an  
6 issuer to furnish money, goods, services, or anything else of value upon presentation  
7 of a credit or debit card by a cardholder, or any agent or employee of such person,  
8 business organization, or financial institution, who, with intent to defraud the issuer,  
9 a participating party, the cardholder, or any other person, furnishes money, goods,  
10 or services or anything else of value upon presentation of a credit or debit card  
11 obtained or retained in violation of KRS 434.570 to 434.650, or any of such  
12 sections, or a credit or debit card which he knows is forged, expired, or revoked is  
13 guilty of fraud by authorized persons.

14 (2) Fraud by authorized persons~~[a Class A misdemeanor, if the value]~~ of all money,  
15 goods, services, or other things of value furnished in violation of this section over a  
16 six (6) month period is:

17 (a) A Class A misdemeanor if the value is less than one thousand~~[five hundred]~~  
18 dollars (\$1,000)~~[\$500]~~, unless the person has been convicted two (2) or  
19 more times in the previous two (2) years of fraud by authorized persons, in  
20 which case the value is less than five hundred dollars (\$500);

21 (b) A Class D felony if such value is one thousand~~[five hundred]~~ dollars  
22 (\$1,000)~~[\$500]~~ or more but is less than ten thousand dollars (\$10,000),  
23 unless the person has been convicted two (2) or more times in the previous  
24 two (2) years of fraud by authorized persons, in which case the value is five  
25 hundred dollars (\$500) or more but is less than ten thousand dollars  
26 (\$10,000); or

27 (c) A Class C felony if such value is ten thousand dollars (\$10,000) or more.

1       ➔Section 14. KRS 434.670 is amended to read as follows:

2       **(1)** A person, business organization, or financial institution who is authorized by an  
 3 issuer to furnish money, goods, services, or anything else of value upon presentation  
 4 of a credit or debit card by a cardholder, or any agent or employee of such person,  
 5 business organization, or financial institution, who, with intent to defraud the issuer,  
 6 a participating party, the cardholder, or any other person, fails to furnish money,  
 7 goods, services, or anything else of value which he represents in writing to the  
 8 issuer that he has furnished over a six (6) month period is guilty of **fraudulent**  
 9 **failure to furnish items of value.**

10       **(2)** **Fraudulent failure to furnish items of value,** ~~a Class A misdemeanor~~ if the  
 11 difference between the value of all money, goods, services, or anything else of value  
 12 actually furnished and the value represented to the issuer to have been furnished, is:

13       **(a)** **A Class A misdemeanor if** less than **one thousand**~~five hundred~~ dollars  
 14       **(\$1,000)**~~(\$500)~~, **unless the person has been convicted two (2) or more**  
 15 **times in the previous two (2) years of fraudulent failure to furnish items of**  
 16 **value, in which case less than five hundred dollars (\$500);**

17       **(b)** A Class D felony if such value is **one thousand**~~five hundred~~ dollars  
 18       **(\$1,000)**~~(\$500)~~ or more but is less than ten thousand dollars (\$10,000),  
 19       **unless the person has been convicted two (2) or more times in the previous**  
 20 **two (2) years of fraudulent failure to furnish items of value, in which case**  
 21 **the value is five hundred dollars (\$500) or more but is less than ten**  
 22 **thousand dollars (\$10,000);** or

23       **(c)** A Class C felony if such value is ten thousand dollars (\$10,000) or more.

24       ➔Section 15. KRS 434.690 is amended to read as follows:

25       (1) **(a)** A person who receives money, goods, services, or anything else of value  
 26       obtained in violation of KRS 434.650, knowing or believing that it was so  
 27       obtained is guilty of **receiving items of value in violation of Section 11 of this**

1 Act.

2 **(b) Receiving items of value in violation of Section 11 of this Act**~~[a Class A~~  
 3 ~~misdemeanor, if the value]~~ of all money, goods, services, and other things of  
 4 value received in violation of this **subsection**~~[section]~~ over a six (6) month  
 5 period is:

6 **1. A Class A misdemeanor if the value is** less than **one thousand**~~[five~~  
 7 ~~hundred]~~ dollars **(\$1,000)**~~[(500)]~~, **unless the person has been**  
 8 **convicted two (2) or more times in the previous two (2) years of**  
 9 **receiving items of value in violation of Section 11 of this Act, in which**  
 10 **case less than five hundred dollars (\$500);**

11 **2.** A Class D felony if such value is **one thousand**~~[five hundred]~~ dollars  
 12 **(\$1,000)**~~[(500)]~~ or more but is less than ten thousand dollars (\$10,000),  
 13 **unless the person has been convicted two (2) or more times in the**  
 14 **previous two (2) years of receiving items of value in violation of**  
 15 **Section 11 of this Act, in which case the value is five hundred dollars**  
 16 **(\$500) or more but is less than ten thousand dollars (\$10,000);** or

17 **3.** A Class C felony if such value is ten thousand dollars (\$10,000) or  
 18 more.

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

22 ➔Section 16. KRS 514.030 is amended to read as follows:

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

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

27 (b) Obtains immovable property of another or any interest therein with intent to

1 benefit himself or another not entitled thereto.

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

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

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

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

12 (d) The value of the property is one thousand~~[five hundred]~~ dollars  
13 (\$1,000)~~(\$500)~~ or more but less than ten thousand dollars (\$10,000), in  
14 which case it is a Class D felony, unless the person has been convicted two  
15 (2) or more times in the previous two (2) years of theft by unlawful taking or  
16 disposition, in which case the value is five hundred dollars (\$500) or more  
17 but is less than ten thousand dollars (\$10,000);

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

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

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

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

27 ➔Section 17. KRS 514.040 is amended to read as follows:

- 1 (1) A person is guilty of theft by deception when the person obtains property or services  
2 of another by deception with intent to deprive the person thereof. A person deceives  
3 when the person intentionally:
- 4 (a) Creates or reinforces a false impression, including false impressions as to law,  
5 value, intention, or other state of mind;
  - 6 (b) Prevents another from acquiring information which would affect judgment of  
7 a transaction;
  - 8 (c) Fails to correct a false impression which the deceiver previously created or  
9 reinforced or which the deceiver knows to be influencing another to whom the  
10 person stands in a fiduciary or confidential relationship;
  - 11 (d) Fails to disclose a known lien, adverse claim, or other legal impediment to the  
12 enjoyment of property which the person transfers or encumbers in  
13 consideration for the property obtained, whether the impediment is or is not  
14 valid or is or is not a matter of official record; or
  - 15 (e) Issues or passes a check or similar sight order for the payment of money,  
16 knowing that it will not be honored by the drawee.
- 17 (2) The term "deceive" does not, however, include falsity as to matters having no  
18 pecuniary significance or puffing by statements unlikely to deceive ordinary persons  
19 in the group addressed.
- 20 (3) Deception as to a person's intention to perform a promise shall not be inferred from  
21 the fact alone that he did not subsequently perform the promise.
- 22 (4) For purposes of subsection (1) of this section, a maker of a check or similar sight  
23 order for the payment of money is presumed to know that the check or order, other  
24 than a postdated check or order, would not be paid, if:
- 25 (a) The maker had no account with the drawee at the time the check or order was  
26 issued; or
  - 27 (b) Payment was refused by the drawee for lack of funds, upon presentation

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

16 (5) If a county attorney issues notice to a maker that a drawee has refused to honor an  
17 instrument due to a lack of funds as described in subsection (4)(b) of this section,  
18 the county attorney may charge a fee to the maker of fifty dollars (\$50), if the  
19 instrument is paid. Money paid to the county attorney pursuant to this section shall  
20 be used only for payment of county attorney office operating expenses. Excess fees  
21 held by the county attorney on June 30 of each year shall be turned over to the  
22 county treasurer before the end of the next fiscal year for use by the fiscal court of  
23 the county.

24 (6) A person is guilty of theft by deception when the person issues a check or similar  
25 sight order in payment of all or any part of any tax payable to the Commonwealth  
26 knowing that it will not be honored by the drawee.

27 (7) A person is guilty of theft by deception when the person issues a check or similar

1 sight order in payment of all or any part of a child support obligation knowing that it  
2 will not be honored by the drawee.

3 (8) Theft by deception is a Class A misdemeanor unless the value of the property,  
4 service, or the amount of the check or sight order referred to in subsection (6) or (7)  
5 of this section is:

6 (a) **One thousand**~~[Five hundred]~~ dollars **(\$1,000)**~~[((\$500)] or more but less than  
7 ten thousand dollars (\$10,000), in which case it is a Class D felony, **unless the**  
8 **person has been convicted two (2) or more times in the previous two (2)**  
9 **years of theft by deception, in which case the value is five hundred dollars**  
10 **(\$500) or more but is less than ten thousand dollars (\$10,000)**; or~~

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

12 ➔Section 18. KRS 514.050 is amended to read as follows:

13 (1) Except as provided in KRS 365.710, a person is guilty of theft of property lost,  
14 mislaid, or delivered by mistake when:

15 (a) He comes into control of the property of another that he knows to have been  
16 lost, mislaid, or delivered under a mistake as to the nature or amount of the  
17 property or the identity of the recipient; and

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

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

22 (a) **One thousand**~~[Five hundred]~~ dollars **(\$1,000)**~~[((\$500)] or more but less than  
23 ten thousand dollars (\$10,000), in which case it is a Class D felony, **unless the**  
24 **person has been convicted two (2) or more times in the previous two (2)**  
25 **years of theft of property lost, mislaid, or delivered by mistake, in which**  
26 **case the value is five hundred dollars (\$500) or more but is less than ten**  
27 **thousand dollars (\$10,000)**; or~~



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

2 ➔Section 19. KRS 514.060 is amended to read as follows:

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

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

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

9 1. Unauthorized interception of any electronic serial number, mobile  
10 identification number, personal identification number, or like identifying  
11 number;

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

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

16 4. Use of deception, threat, or other means to avoid payment for the  
17 services which the person knows are available only for charge or  
18 compensation; or

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

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

26 (3) In any prosecution for theft of gas, water, electricity, or other public service, where  
27 the utility supplying the service had installed a meter or other device to record the

1 amount of service supplied, proof that:

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

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

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

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

9 (a) **One thousand**~~Five hundred~~ dollars **(\$1,000)**~~(\$500)~~ or more but less than  
10 ten thousand dollars (\$10,000), in which case it is a Class D felony, **unless the**  
11 **person has been convicted two (2) or more times in the previous two (2)**  
12 **years of theft of services, in which case the value is five hundred dollars**  
13 **(\$500) or more but is less than ten thousand dollars (\$10,000)**; or

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

15 ➔Section 20. KRS 514.070 is amended to read as follows:

16 (1) A person is guilty of theft by failure to make required disposition of property  
17 received when:

18 (a) He obtains property upon agreement or subject to a known legal obligation to  
19 make specified payment or other disposition whether from such property or its  
20 proceeds or from his own property to be reserved in equivalent amount; and

21 (b) He intentionally deals with the property as his own and fails to make the  
22 required payment or disposition.

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

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

27 (a) To know any legal obligation relevant to his criminal liability under this

1 section; and

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

3 1. He fails to account or pay upon lawful demand; or

4 2. An audit reveals a shortage or falsification of accounts.

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

7 (a) **One thousand**~~Five hundred~~ dollars **(\$1,000)**~~(\$500)~~ or more but less than  
8 ten thousand dollars (\$10,000), in which case it is a Class D felony, **unless the**  
9 **person has been convicted two (2) or more times in the previous two (2)**  
10 **years of theft by failure to make required disposition of property received, in**  
11 **which case the value is five hundred dollars (\$500) or more but is less than**  
12 **ten thousand dollars (\$10,000)**; or

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

14 (5) No person shall be convicted of theft by failure to make required disposition of  
15 property received when he or she has also been convicted of a violation of KRS  
16 522.050 arising out of the same incident.

17 ➔Section 21. KRS 514.080 is amended to read as follows:

18 (1) A person is guilty of theft by extortion when he intentionally obtains property of  
19 another by threatening to:

20 (a) Inflict bodily injury on anyone or commit any other criminal offense; or

21 (b) Accuse anyone of a criminal offense; or

22 (c) Expose any secret tending to subject any person to hatred, contempt, or  
23 ridicule, or to impair his credit or business repute; or

24 (d) Use wrongfully his position as a public officer or servant or employee by  
25 performing some act within or related to his official duties, either expressed or  
26 implied, or by refusing or omitting to perform an official duty, either  
27 expressed or implied, in a manner affecting some person adversely; or

- 1 (e) Bring about or continue a strike, boycott, or other collective unofficial action,  
 2 if the property is not demanded or received for the benefit of the group in  
 3 whose interest the actor purports to act; or
- 4 (f) Testify or provide information or withhold testimony or information with  
 5 respect to another's legal claim or defense.
- 6 (2) It is a defense to prosecution based on subsection (1)(b), (c), or (d) that the property  
 7 obtained by threat of accusation, exposure, lawsuit, or other invocation of official  
 8 action was claimed as restitution or indemnification for harm done in the  
 9 circumstances to which accusation, exposure, lawsuit, or other official action  
 10 relates, or as compensation for property or lawful services.
- 11 (3) Theft by extortion is a Class A misdemeanor unless the value of the property  
 12 obtained is:
- 13 (a) **One thousand**~~Five hundred~~ dollars **(\$1,000)**~~(\$500)~~ or more but less than  
 14 ten thousand dollars (\$10,000), in which case it is a Class D felony, **unless the**  
 15 **person has been convicted two (2) or more times in the previous two (2)**  
 16 **years of theft by extortion, in which case the value is five hundred dollars**  
 17 **(\$500) or more but is less than ten thousand dollars (\$10,000)**; or
- 18 (b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.
- 19 ➔Section 22. KRS 514.090 is amended to read as follows:
- 20 (1) A person is guilty of theft of labor already rendered when, in payment of labor  
 21 already rendered by another, he intentionally issues or passes a check or similar  
 22 sight order for the payment of money, knowing that it will not be honored by the  
 23 drawee.
- 24 (2) For purposes of subsection (1) of this section, an issuer of a check or similar sight  
 25 order for the payment of money is presumed to know that the check or order, other  
 26 than a postdated check or order, would not be paid, if:
- 27 (a) The issuer had no account with the drawee at the time the check or order was

1 issued; or

2 (b) Payment was refused by the drawee for lack of funds, upon presentation  
3 within thirty days (30) after issue, and the issuer failed to make good within  
4 ten (10) days after receiving notice of that refusal.

5 (3) Theft of labor already rendered is a Class A misdemeanor unless the value of the  
6 labor rendered is:

7 (a) One thousand~~[Five hundred]~~ dollars (\$1,000)~~[(500)]~~ or more but less than  
8 ten thousand dollars (\$10,000), in which case it is a Class D felony, unless the  
9 person has been convicted two (2) or more times in the previous two (2)  
10 years of theft of labor already rendered, in which case the value is five  
11 hundred dollars (\$500) or more but is less than ten thousand dollars  
12 (\$10,000); or

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

14 ➔Section 23. KRS 514.110 is amended to read as follows:

15 (1) A person is guilty of receiving stolen property when he receives, retains, or disposes  
16 of movable property of another knowing that it has been stolen, or having reason to  
17 believe that it has been stolen, unless the property is received, retained, or disposed  
18 of with intent to restore it to the owner.

19 (2) The possession by any person of any recently stolen movable property shall be  
20 prima facie evidence that such person knew such property was stolen.

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

22 (a) The value of the property is one thousand~~[five hundred]~~ dollars  
23 (\$1,000)~~[(500)]~~ or more but less than ten thousand dollars (\$10,000), in  
24 which case it is a Class D felony, unless the person has been convicted two  
25 (2) or more times in the previous two (2) years of receiving stolen property,  
26 in which case the value is five hundred dollars (\$500) or more but is less  
27 than ten thousand dollars (\$10,000);

- 1 (b) The value of the property is ten thousand dollars (\$10,000) or more, in which  
2 case it is a Class C felony;
- 3 (c) The property is a firearm, regardless of the value of the firearm, in which case  
4 it is a Class D felony; or
- 5 (d) The property is anhydrous ammonia, regardless of the value of the ammonia,  
6 in which case it is a Class D felony unless it is proven that the person violated  
7 this section with the intent to manufacture methamphetamine in violation of  
8 KRS 218A.1432, in which case it is a Class B felony for the first offense and a  
9 Class A felony for each subsequent offense.

10 ➔Section 24. KRS 514.120 is amended to read as follows:

- 11 (1) A person is guilty of obscuring the identity of a machine or other property when he  
12 or she:
- 13 (a) Removes, defaces, covers, alters, destroys, or otherwise obscures the  
14 manufacturer's serial number or any other distinguishing identification number  
15 or mark, including property marked with a Social Security number or motor  
16 vehicle operator's license number for identification purposes, upon any  
17 automobile or other propelled vehicle, machine, or electrical or mechanical  
18 device, or other property, including any part thereof, with intent to render it or  
19 other property unidentifiable; or
- 20 (b) Possesses any automobile or other propelled vehicle, machine, or electrical or  
21 mechanical device, or other property, including any part thereof, knowing that  
22 the serial number or other identification number or mark, including property  
23 marked with a Social Security number for identification purposes, has been  
24 removed, defaced, covered, altered, destroyed, or otherwise obscured.
- 25 (2) Possession of any automobile or other propelled vehicle, machine, or electrical or  
26 mechanical device, or other property, including any part thereof, on which the serial  
27 number or any other distinguishing identification number or mark, including

1 property marked with a Social Security number or motor vehicle operator's license  
 2 number for identification purposes, has been removed, defaced, covered, altered,  
 3 destroyed, or otherwise obscured is prima facie evidence of knowledge of that fact.

4 (3) A person in possession of any property which is otherwise in violation of this  
 5 section may apply in writing to the Department of Kentucky State Police, through  
 6 any law enforcement agency in the county of his or her residence, for assignment of  
 7 a number for the property providing he or she can show that he or she is the lawful  
 8 owner of the property pursuant to the provisions of this section and KRS 16.200 and  
 9 500.090. If a number is issued in conformity with the provisions of this section and  
 10 KRS 16.200 and 500.090, then the person to whom it was issued and any person to  
 11 whom the property is lawfully disposed of shall not be in violation of these sections.  
 12 A person lawfully holding a certification issued pursuant to KRS 500.090 shall also  
 13 be deemed in compliance with this section. This section shall apply only when the  
 14 application has been filed by the defendant prior to arrest or authorization of a  
 15 warrant of arrest for the defendant by a court.

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

18 (a) One thousand~~Five hundred~~ dollars (\$1,000)~~(\$500)~~ or more but less than  
 19 ten thousand dollars (\$10,000), in which case it is a Class D felony, unless the  
 20 person has been convicted two (2) or more times in the previous two (2)  
 21 years of obscuring the identity of a machine or other property, in which  
 22 case the value is five hundred dollars (\$500) or more but is less than ten  
 23 thousand dollars (\$10,000); or

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

25 ➔Section 25. KRS 517.060 is amended to read as follows:

26 (1) A person is guilty of defrauding secured creditors when he destroys, damages,  
 27 removes, conceals, encumbers, transfers, or otherwise deals with property subject to

1 a security interest with intent either to lower the value of the secured interest or  
2 unlawfully to hinder enforcement of that interest.

3 (2) Defrauding secured creditors is a Class A misdemeanor unless the value of the  
4 property subject to the security interest is:

5 (a) **One thousand**~~Five hundred~~ dollars **(\$1,000)**~~(\$500)~~ or more up to ten  
6 thousand dollars (\$10,000), in which case it is a Class D felony, **unless the**  
7 **person has been convicted two (2) or more times in the previous two (2)**  
8 **years of defrauding secured creditors, in which case the value is five**  
9 **hundred dollars (\$500) or more but is less than ten thousand dollars**  
10 **(\$10,000)**; or

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

12 ➔Section 26. KRS 439.3401 is amended to read as follows:

13 (1) As used in this section, "violent offender" means any person who has been  
14 convicted of or pled guilty to the commission of:

15 (a) A capital offense;

16 (b) A Class A felony;

17 (c) A Class B felony involving the death of the victim or serious physical injury  
18 to a victim;

19 (d) An offense described in KRS 507.040 or 507.050 where the offense involves  
20 the killing of a peace officer or firefighter while the officer or firefighter was  
21 acting in the line of duty;

22 (e) **A Class B felony involving criminal attempt to commit murder under KRS**  
23 **506.010 if the victim of the offense is a clearly identifiable peace officer or**  
24 **firefighter acting in the line of duty, regardless of whether an injury results;**

25 ~~(f)~~ The commission or attempted commission of a felony sexual offense  
26 described in KRS Chapter 510;

27 ~~(g)~~~~(f)~~ Use of a minor in a sexual performance as described in KRS 531.310;



1        ~~(h)~~~~(g)~~ Promoting a sexual performance by a minor as described in KRS  
2                    531.320;

3        ~~(i)~~~~(h)~~ Unlawful transaction with a minor in the first degree as described in  
4                    KRS 530.064(1)(a);

5        ~~(j)~~~~(i)~~ Human trafficking under KRS 529.100 involving commercial sexual  
6                    activity where the victim is a minor;

7        ~~(k)~~~~(j)~~ Criminal abuse in the first degree as described in KRS 508.100;

8        ~~(l)~~~~(k)~~ Burglary in the first degree accompanied by the commission or  
9                    attempted commission of an assault described in KRS 508.010, 508.020,  
10                   508.032, or 508.060;

11       ~~(m)~~~~(l)~~ Burglary in the first degree accompanied by commission or attempted  
12                   commission of kidnapping as prohibited by KRS 509.040; or

13       ~~(n)~~~~(m)~~ Robbery in the first degree.

14       The court shall designate in its judgment if the victim suffered death or serious  
15       physical injury.

16       (2) A violent offender who has been convicted of a capital offense and who has  
17       received a life sentence (and has not been sentenced to twenty-five (25) years  
18       without parole or imprisonment for life without benefit of probation or parole), or a  
19       Class A felony and receives a life sentence, or to death and his or her sentence is  
20       commuted to a life sentence shall not be released on probation or parole until he or  
21       she has served at least twenty (20) years in the penitentiary. Violent offenders may  
22       have a greater minimum parole eligibility date than other offenders who receive  
23       longer sentences, including a sentence of life imprisonment.

24       (3) (a) A violent offender who has been convicted of a capital offense or Class A  
25       felony with a sentence of a term of years or Class B felony shall not be  
26       released on probation or parole until he has served at least eighty-five percent  
27       (85%) of the sentence imposed.

- 1 (b) A violent offender who has been convicted of a violation of KRS 507.040  
2 where the victim of the offense was clearly identifiable as a peace officer or a  
3 firefighter and the victim was acting in the line of duty shall not be released on  
4 probation or parole until he or she has served at least eighty-five percent  
5 (85%) of the sentence imposed.
- 6 (c) A violent offender who has been convicted of a violation of KRS 507.040 or  
7 507.050 where the victim of the offense was a peace officer or a firefighter  
8 and the victim was acting in the line of duty shall not be released on probation  
9 or parole until he or she has served at least fifty percent (50%) of the sentence  
10 imposed.
- 11 (d) Any offender who has been convicted of a homicide or fetal homicide offense  
12 under KRS Chapter 507 or 507A in which the victim of the offense died as the  
13 result of an overdose of a Schedule I controlled substance and who is not  
14 otherwise subject to paragraph (a), (b), or (c) of this subsection shall not be  
15 released on probation, shock probation, parole, conditional discharge, or other  
16 form of early release until he or she has served at least fifty percent (50%) of  
17 the sentence imposed.
- 18 (4) A violent offender shall not be awarded any credit on his sentence authorized by  
19 KRS 197.045(1)(b)1. In no event shall a violent offender be given credit on his or  
20 her sentence if the credit reduces the term of imprisonment to less than eighty-five  
21 percent (85%) of the sentence.
- 22 (5) This section shall not apply to a person who has been determined by a court to have  
23 been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard  
24 to the offenses involving the death of the victim or serious physical injury to the  
25 victim. The provisions of this subsection shall not extend to rape in the first degree  
26 or sodomy in the first degree by the defendant.
- 27 (6) This section shall apply only to those persons who commit offenses after July 15,

1 1998.

2 (7) For offenses committed prior to July 15, 1998, the version of this statute in effect  
3 immediately prior to that date shall continue to apply.

4 (8) The provisions of subsection (1) of this section extending the definition of "violent  
5 offender" to persons convicted of or pleading guilty to robbery in the first degree  
6 shall apply only to persons whose crime was committed after July 15, 2002.

7 ➔Section 27. KRS 431.066 is amended to read as follows:

8 (1) For purposes of this section ~~and Section 28 of this Act:~~

9 (a) "Enhanced scrutiny offense" means a violation of KRS 209.990(2), (3), and  
10 (4), 218A.1432, 507A.040, 507A.050, 508.020, 508.025, 508.030, excluding  
11 minor injury or no visible injury, 508.040(2)(a) and (b), 508.050, 508.060,  
12 508.075, 508.078, 508.100, 508.110, 508.120, 508.140, 508.150, 509.020,  
13 509.040, 510.120, 510.130, 511.020, 513.030, 513.040, 515.020, 515.030,  
14 518.090, 525.020, 527.205, 529.100, or 529.110;

15 (b) "Monetary bond" means any financial condition of release including cash,  
16 property, a percentage of cash bail, secured, unsecured, or otherwise;

17 (c) "Verified and eligible defendant" means a defendant who pretrial services is  
18 able to interview and assess, and whose identity pretrial services is able to  
19 confirm through investigation; and

20 (d) "Violent or sexual offense" means an offense that would qualify a  
21 defendant if convicted as a violent offender under KRS 439.3401 or an  
22 offense under KRS Chapter 510, KRS 529.100 involving commercial sexual  
23 activity, KRS 530.020, 530.064(1)(a), 531.310, or 531.320.

24 (2) No verified and eligible defendant shall be detained or held on monetary bond  
25 except for a high-risk defendant not charged with a violent or sexual offense who  
26 meets the monetary bond requirements of Section 28 of this Act.

27 (3) (a) Pretrial services shall use a validated pretrial risk assessment tool to

1 determine whether a verified and eligible defendant presents a low,  
 2 moderate, or high risk.

3 (b) The validated pretrial risk assessment tool shall consider whether a person  
 4 poses a risk of flight, failing~~[When a court considers pretrial release and bail~~  
 5 ~~for an arrested defendant, the court shall consider whether the defendant~~  
 6 ~~constitutes a flight risk, is unlikely] to appear for required court appearances,~~  
 7 ~~[trial,] or being~~~~[or is likely to be] a danger to the public if released,~~~~[.] by~~  
 8 considering such factors as failure to appear for scheduled court  
 9 appearances, prior criminal history, types of offenses, and any other factors  
 10 determined appropriate or necessary by pretrial services~~[In making this~~  
 11 ~~determination, the court shall consider the pretrial risk assessment for a~~  
 12 ~~verified and eligible defendant along with the factors set forth in KRS~~  
 13 ~~431.525].~~

14 (c) Any verified and eligible defendant who violates the conditions of pretrial  
 15 release shall be at least a moderate risk.

16 ~~(4)~~~~(3)~~ (a) Except as provided in subsection (7) of this section, when the court is  
 17 making a bail determination for~~[H]~~ a verified and eligible defendant, if the  
 18 defendant:

19 1. Poses a low risk as determined under subsection (3) of this section;  
 20 2. Has not been charged with a violent or sexual offense; and  
 21 3. Has not been charged with an enhanced scrutiny offense;~~[of flight, is~~  
 22 ~~likely to appear for trial, and is not likely to be a danger to others,]~~  
 23 the court shall order the defendant released on his or her~~[unsecured bond or~~  
 24 ~~on the defendant's] own recognizance subject to the~~~~[such other] conditions~~  
 25 outlined in paragraph (b) of this subsection~~[as the court may order].~~

26 (b) Verified and eligible defendants released pursuant to paragraph (a) of this  
 27 subsection shall be released with the following conditions:

- 1           **1. The defendant shall not commit a local, state, or federal offense;**
- 2           **2. The defendant shall appear for all required court appearances; and**
- 3           **3. The defendant shall avoid all contact with any alleged victim and any**
- 4           **potential witness who may testify concerning the charge, unless or**
- 5           **until the court removes this condition.**

6 ~~(5)~~~~(4)~~ **(a) Except as provided in paragraph (b) of this subsection and subsection**  
7 **(7) of this section, when the court is making a bail determination for~~[H]~~ a**  
8 verified and eligible defendant, **if the defendant:**

- 9           **1. Poses a low risk as determined under subsection (3) of this section and**
- 10           **has not been charged with a violent or sexual offense but has been**
- 11           **charged with an enhanced scrutiny offense; or**
- 12           **2. Poses a moderate risk as determined under subsection (3) of this**
- 13           **section and has not been charged with a violent or sexual offense or**
- 14           **with an enhanced scrutiny offense;**~~[of flight, has a moderate risk of not~~  
15           ~~appearing for trial, or poses a moderate risk of danger to others.]~~

16 the court shall ~~order~~~~[release]~~ the defendant **released** under the same  
17 conditions as in subsection ~~(4)(b)~~~~(3)~~ of this section **and may impose**  
18 **additional nonfinancial conditions as outlined in KRS 431.064, 431.518,**  
19 **and 431.520**~~[but shall consider ordering the defendant to participate in global~~  
20 ~~positioning system monitoring, controlled substance testing, increased~~  
21 ~~supervision, or such other conditions as the court may order].~~

22 **(b) Except as provided in subsection (7) of this section, when the court is**  
23 **making a bail determination for a verified and eligible defendant who poses**  
24 **a moderate risk:**

- 25           **1. As determined under subsection (3) of this section; and**
- 26           **2. Has been charged with an enhanced scrutiny offense;**
- 27           **the court may order the defendant released under the same conditions as in**

1           subsection (4)(b) of this section and may impose additional nonfinancial  
2           conditions as outlined in KRS 431.064, 431.518, and 431.520.

3 ~~(6)~~~~(5)~~   (a) When the court is making a bail determination for a verified and  
4           eligible defendant, if the defendant poses:

5           1. A low or moderate risk as determined under subsection (3) of this  
6           section and has been charged with a violent or sexual offense; or

7           2. A high risk as determined under subsection (3) of this section;  
8           the defendant shall be subject to the provisions of Section 28 of this Act.

9           (b) For a verified and eligible defendant outlined in paragraph (a) of this  
10           subsection who has been charged with a violent or sexual offense, the  
11           defendant shall be detained until he or she appears before the court in  
12           accordance with Section 28 of this Act.

13           (c) For a verified and eligible defendant who poses a high risk but is not  
14           charged with a violent or sexual offense, the court may:

15           1. Detain the defendant until he or she appears before the court in  
16           accordance with Section 28 of this Act; or

17           2. Except as provided in subsection (7) of this section, release the  
18           defendant on his or her own recognizance, until he or she appears  
19           before the court in accordance with Section 28 of this Act, under the  
20           same conditions as in subsection (4)(b) of this section and any  
21           additional nonfinancial conditions as outlined in KRS 431.064,  
22           431.518, and 431.520.

23           (7) The court may:

24           (a) For any verified and eligible defendant:

25           1. Require the defendant to participate in a substance abuse screening;  
26           or

27           2. Refer the defendant for substance abuse treatment; or

1        (b) For any verified and eligible defendant subject to subsection (4) or (5) of  
 2                this section, detain the defendant up to seven (7) days before releasing him  
 3                or her;

4        if the court has a reasonable suspicion that the defendant is illegally under the  
 5                influence of a controlled substance.

6        (8) The Supreme Court may make any procedural rules necessary to implement the  
 7                provisions of this section~~[(a) — Except as provided in paragraph (b) of this~~  
 8                ~~subsection, regardless of the amount of the bail set, the court shall permit the~~  
 9                ~~defendant a credit of one hundred dollars (\$100) per day as a payment toward the~~  
 10                ~~amount of the bail set for each day or portion of a day that the defendant remains in~~  
 11                ~~jail prior to trial. Upon the service of sufficient days in jail to have sufficient credit~~  
 12                ~~to satisfy the bail, the defendant shall be released from jail on the conditions~~  
 13                ~~specified in this section or in this chapter.~~

14        ~~(b) The provisions of paragraph (a) of this subsection shall not apply to:~~

15                1. ~~Any person convicted of, pleading guilty to, or entering an Alford plea~~  
 16                ~~to a felony offense under KRS Chapter 510, KRS 529.100 involving~~  
 17                ~~commercial sexual activity, KRS 530.020, 530.064(1)(a), 531.310, or~~  
 18                ~~531.320, or who is a violent offender as defined in KRS 439.3401; or~~

19                2. ~~A defendant who is found by the court to present a flight risk or to be a~~  
 20                ~~danger to others.~~

21        ~~(c) For purposes of this subsection, "a day or portion of a day" means any time~~  
 22                ~~spent in a detention facility following booking.~~

23        ~~(d) A defendant shall not earn credit pursuant to paragraph (a) of this subsection~~  
 24                ~~while also earning credit pursuant to KRS 534.070.~~

25        ~~(6) If a court determines that a defendant shall not be released pursuant to subsection~~  
 26                ~~(5) of this section, the court shall document the reasons for denying the release in a~~  
 27                ~~written order.~~

1 ~~(7) — The jailer shall be responsible for tracking the credit earned by a defendant pursuant~~  
2 ~~to subsection (5) of this section].~~

3 ➔SECTION 28. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO  
4 READ AS FOLLOWS:

5 (1) (a) When the court is making a bail determination for a verified and eligible  
6 defendant who is appearing before the court, if the defendant poses:

7 1. A low or moderate risk as determined under Section 27 of this Act and  
8 has been charged with a violent or sexual offense; or

9 2. A high risk as determined under Section 27 of this Act and is not  
10 eligible for monetary bond pursuant to subsection (2) of this section;

11 the court shall determine whether any nonfinancial condition, or  
12 combination of conditions, outlined in KRS 431.064, 431.518, and 431.520  
13 shall reasonably ensure the appearance of the defendant for required court  
14 appearances and the safety of the public.

15 (b) The court shall, in determining whether there are conditions of release that  
16 will reasonably ensure the appearance of the defendant for required court  
17 appearances and the safety of the public, consider the following:

18 1. Whether the offense involves violence, obstruction of public  
19 administration under KRS Chapter 519, or interference with judicial  
20 administration under KRS Chapter 524; and

21 2. The history and characteristics of the defendant, including:

22 a. The defendant's character, physical and mental condition,  
23 family ties, employment, financial resources, length of residence  
24 in the community, community ties, past conduct, history relating  
25 to drug or alcohol abuse, criminal history, and record  
26 concerning appearance at court proceedings;

27 b. Whether, at the time of the current offense or arrest, the



1 defendant was on probation, on parole, on supervised release, or  
2 on other release pending trial, sentencing, appeal, or completion  
3 of sentence for an offense under local, state, or federal law; and  
4 c. The nature and seriousness of the danger to any person or the  
5 community that would be posed by the defendant's release.

6 (c) There shall be a rebuttable presumption that no condition or combination  
7 of conditions of release will reasonably ensure the safety of the public if the  
8 court finds by probable cause that the defendant:

- 9 1. Committed a violent or sexual offense while armed with a deadly  
10 weapon or dangerous instrument;
- 11 2. Committed a violent or sexual offense and has previously been  
12 convicted of a violent or sexual offense which was committed while on  
13 release pending trial for a local, state, or federal offense;
- 14 3. Committed a violent or sexual offense while on release pending trial  
15 for a local, state, or federal offense;
- 16 4. Committed two (2) or more violent or sexual offenses in separate  
17 incidents that are joined in the case before the court;
- 18 5. Committed a violent or sexual offense in which the victim sustained a  
19 physical injury; or
- 20 6. Violated KRS 218A.992, 527.040, 527.070, or 527.080.

21 (d) After considering the information outlined in paragraph (b) of this  
22 subsection and the existence, if any, of a rebuttable presumption under  
23 paragraph (c) of this subsection, if the court finds by clear and convincing  
24 evidence that no condition, or combination of conditions, outlined in KRS  
25 431.064, 431.518, and 431.520 shall reasonably ensure the appearance of  
26 the defendant for required court appearances or the safety of the public, the  
27 court shall order the defendant detained before trial.

1 (2) (a) When the court is making a bail determination for a verified and eligible  
2 defendant who is appearing before the court, if the defendant:

3 1. Poses a high risk as determined under Section 27 of this Act;

4 2. Poses a risk of flight or failing to appear for required court  
5 appearances;

6 3. Does not pose a danger to the public if released; and

7 4. Has not been charged with a violent or sexual offense;

8 the court may impose monetary bond in addition to any conditions outlined  
9 in KRS 431.064, 431.518, and 431.520 for the sole purpose of reasonably  
10 ensuring the appearance of the defendant for required court appearances  
11 and shall not be used for the purpose of detaining a defendant. If imposed,  
12 the amount of monetary bond shall be set in accordance with Section 32 of  
13 this Act.

14 (b) In considering whether to impose monetary bond under paragraph (a) of  
15 this subsection, the court may upon its own motion, or shall upon the  
16 motion of the Commonwealth, conduct an inquiry into the source of the  
17 property to be designated for potential forfeiture or offered as collateral to  
18 secure a bond, and shall decline to accept the designation or the use as  
19 collateral of property that, because of its source, will not reasonably ensure  
20 the appearance of the defendant at required court appearances.

21 (3) When the court is making a bail determination for a verified and eligible  
22 defendant pursuant to this section, the defendant shall:

23 (a) Have the right to be represented by counsel and, if financially unable to  
24 obtain adequate representation, to have counsel appointed; and

25 (b) Be afforded an opportunity to testify. However, the defendant's testimony  
26 shall not be admissible on the issue of guilt in any other judicial  
27 proceedings, except for those proceedings under KRS 520.070 and 520.080,

1 in revocation hearings, in perjury proceedings, and for the purpose of  
 2 impeachment in any subsequent proceedings.

3 (4) After the court has determined pursuant to this section to either detain or release  
 4 a verified and eligible defendant prior to trial, the determination may be reviewed  
 5 at any time before trial by the court either upon its own motion or upon motion of  
 6 either party if:

7 (a) The court finds that information exists pertaining to a defendant's risk of  
 8 flight, failing to appear, or being a danger to the public if released that was  
 9 not known to the movant at the time of the determination and that has a  
 10 material bearing on the issue of whether there are conditions of release that  
 11 will reasonably ensure the appearance of the defendant for required court  
 12 appearances or the safety of the public; or

13 (b) Based on the Commonwealth's motion, the court finds probable cause that  
 14 the defendant has failed to comply with the conditions of release. The court  
 15 may either summon the defendant to appear at a hearing or issue a warrant  
 16 for the defendant's arrest. If a defendant is arrested pursuant to this  
 17 paragraph, a hearing shall be held within five (5) days of arrest.

18 (5) Nothing in this section shall be construed as modifying or limiting the verified  
 19 and eligible defendant's presumption of innocence.

20 ➔Section 29. KRS 27A.360 is amended to read as follows:

21 The court disposition level of the system shall consist of at least the following  
 22 information as relates to bond and pretrial release:

23 (1) Whether or not the defendant was released on bail or pretrial release;

24 (2) If the defendant is released on monetary bond under Section 28 of this Act<sup>[bail]</sup>:

25 (a) The amount of the bail;

26 (b) Whether the bail was cash, property, a percentage of cash bail, secured,  
 27 unsecured, or otherwise;

- 1 (c) Whether the conditions of bail were satisfied; and
- 2 (d) Whether or not the bail was returned, forfeited, credited to the public advocate
- 3 or otherwise;
- 4 (3) If released on any other form of pretrial release:
- 5 (a) Whether or not released on own recognizance;
- 6 (b) Whether release was upon conditions, if so what conditions; and
- 7 (c) Whether the conditions of release were satisfied.

8 ➔Section 30. KRS 222.204 is amended to read as follows:

- 9 (1) A person who has been arrested and placed in jail prior to trial for violation of KRS
- 10 222.202 and has not had two (2) prior convictions in the previous twelve (12)
- 11 months for violation of KRS 222.202 shall be released~~[as set forth by the Supreme~~
- 12 ~~Court Rule of Criminal Procedure uniform schedule of bail]~~:

- 13 (a) To an adult who is willing to accept responsibility for the defendant through a
- 14 signature verification on a form determined by the Administrative Office of
- 15 the Courts;
- 16 (b) If *eligible for monetary bond under Section 28 of this Act*, he pays the
- 17 requisite amount of bail on a bail schedule issued by the court;
- 18 (c) At such time as he is able to safely care for himself but in no event shall he be
- 19 detained for more than eight (8) hours following his arrest;
- 20 (d) If he is ordered released by a court of competent jurisdiction; or
- 21 (e) Unless such person's release is precluded by other provisions of law.

- 22 (2) The jail or facility authorized by county or city ordinance agreeing to care for the
- 23 person releasing the defendant shall be considered as acting in good faith and shall
- 24 not be liable for subsequent acts of the defendant upon release.

25 ➔Section 31. KRS 431.520 is amended to read as follows:

- 26 *Except as provided in Sections 27 and 28 of this Act*, any person charged with an offense
- 27 shall be ordered released by a court of competent jurisdiction pending trial on his

1 personal recognizance and ~~for upon the execution of an unsecured bail bond in an amount~~  
2 ~~set by the court or as fixed by the Supreme Court as provided by KRS 431.540, unless the~~  
3 ~~court determines in the exercise of its discretion that such a release will not reasonably~~  
4 ~~assure the appearance of the person as required, or the court determines the person is a~~  
5 ~~flight risk or a danger to others. When such a determination is made,] the court may[shall,~~  
6 ~~either in lieu of or in addition to the above methods of release,] impose any of the~~  
7 following conditions of release:

- 8 (1) Place the person in the custody of a designated person or organization agreeing to  
9 supervise him;
- 10 (2) Place restrictions on the travel, association, or place of abode of the person during  
11 the period of release;
- 12 (3) *For those eligible for monetary bond under Section 28 of this Act,* require the  
13 execution of a bail bond:
  - 14 (a) With sufficient personal surety or sureties acceptable to the court; in  
15 determining the sufficiency of such surety or sureties, the court shall consider  
16 his character, his place of residence, his relationship with the defendant, and  
17 his financial and employment circumstances; or
  - 18 (b) With the ten percent (10%) deposit as provided in KRS 431.530; ~~provided~~  
19 ~~that if the defendant is permitted to earn credit toward bail pursuant to KRS~~  
20 ~~431.066, that credit shall be applied to the ten percent (10%) deposit; }or~~
  - 21 (c) With the deposit of cash equal to the amount of the bond or in lieu thereof  
22 acceptable security as provided in KRS 431.535;
- 23 (4) If the person's record indicates a history of controlled substance or alcohol abuse:
  - 24 (a) Order the person to submit to periodic testing for use of controlled substances  
25 or alcohol and pay a reasonable fee, not to exceed the actual cost of the test  
26 and analysis, as determined by the court with the fee to be collected by the  
27 circuit clerk, held in an agency account, and disbursed, on court order, solely

- 1 to the agency or agencies responsible for testing and analysis as compensation  
2 for the cost of the testing and analysis performed under this subsection. If the  
3 person is declared indigent, the testing fee may be waived by the court. The  
4 Administrative Office of the Courts shall establish pilot projects to implement  
5 the provisions of this subsection; or
- 6 (b) Order the person to use an alcohol monitoring device, as defined in KRS  
7 431.068. All costs associated with the device, including administrative and  
8 operating costs, shall be paid by the defendant. If the court determines that the  
9 defendant is indigent, and a person, county, or other organization has not  
10 agreed to pay the costs for the defendant in an attempt to reduce incarceration  
11 expenses and increase public safety, the court shall consider other conditions  
12 of release provided for in this section;
- 13 (5) (a) During all or part of a person's period of release pursuant to this section, order  
14 the person to participate in a global positioning monitoring system program  
15 operated by a county pursuant to KRS 67.372 and 67.374 under the same  
16 terms and conditions provided under KRS 431.517.
- 17 (b) If the person is charged with a sex crime as defined in KRS 17.500, consider  
18 requiring that he or she be monitored electronically, and shall consider  
19 requiring the person be subject to home incarceration;
- 20 (6) Impose any ***nonfinancial conditions***~~[other condition]~~ deemed reasonably necessary  
21 to assure appearance as required, including a condition requiring that the person  
22 return to custody after specified hours;
- 23 (7) A court authorizing the release of a person pursuant to this section shall cause the  
24 issuance of an appropriate order containing a statement of the conditions imposed,  
25 if any, shall cause such person to be informed of the penalties applicable to  
26 violations of the conditions of his release, and shall cause him to be informed that a  
27 warrant for his arrest will be issued immediately upon any such violation;

1 (8) A person for whom conditions of release are imposed and who after twenty-four  
2 (24) hours from the time of the imposition of said conditions continues to be  
3 detained as a result of his inability to meet the conditions of release shall, upon  
4 written application or upon the court's own motion, be entitled to have the  
5 conditions reviewed by the court which imposed them. A person who is ordered  
6 released on a condition which requires that he return to custody after specified hours  
7 shall, upon written application or upon the court's own motion, be entitled to a  
8 review by the court which imposed the condition; or

9 (9) If at any time following release of a defendant and before he is required to appear  
10 for trial, the court is advised of a material change in the defendant's circumstances  
11 or that he has not complied with all conditions imposed upon his release, the court  
12 having jurisdiction may:

13 (a) Order the arrest of the defendant;

14 (b) Enter an order requiring the defendant, his surety or sureties to appear and  
15 show cause why the bail bond should not be forfeited or the conditions of his  
16 release be changed; or

17 (c) Both.

18 A copy of said order shall be served upon the defendant, his surety or sureties. If the  
19 defendant fails to appear before the court as ordered or if, after hearing, the court  
20 finds the conditions of release have not been complied with, the court may change  
21 the conditions imposed or forfeit the bail bond or any portion thereof and enter a  
22 judgment for the Commonwealth against the defendant and his surety or sureties for  
23 the amount of the bail bond or any portion thereof and cost of the proceedings.

24 ➔Section 32. KRS 431.525 is amended to read as follows:

25 (1) **For those eligible for monetary bond under Section 28 of this Act,** the amount of  
26 the bail shall be:

27 (a) Sufficient to insure compliance with the conditions of release set by the court;

- 1 (b) Not oppressive;
- 2 (c) Commensurate with the nature of the offense charged;
- 3 (d) Considerate of the past criminal acts and the reasonably anticipated conduct of  
4 the defendant if released; and
- 5 (e) Considerate of the financial ability of the defendant.
- 6 (2) When a person is eligible for monetary bond under Section 28 of this Act and is  
7 charged with an offense punishable by fine only, the amount of the bail bond set  
8 shall not exceed the amount of the maximum penalty and costs.
- 9 (3) When a person is eligible for monetary bond under Section 28 of this Act and has  
10 been convicted of an offense and only a fine has been imposed, the amount of the  
11 bail shall not exceed the amount of the fine.
- 12 (4) When a person is eligible for monetary bond under Section 28 of this Act and has  
13 been charged with one (1) or more misdemeanors, the amount of the bail for all  
14 charges shall be encompassed by a single amount of bail that shall not exceed the  
15 amount of the fine and court costs for the one (1) highest misdemeanor charged.  
16 This subsection shall apply only to misdemeanor offenses not involving physical  
17 injury or sexual contact.
- 18 (5) When a person is eligible for monetary bond under Section 28 of this Act and has  
19 been convicted of a misdemeanor offense and a sentence of jail, probation,  
20 conditional discharge, or sentence other than a fine only has been imposed, the  
21 amount of bail for release on appeal shall not exceed double the amount of the  
22 maximum fine that could have been imposed for the one (1) highest misdemeanor  
23 offense for which the person was convicted. This subsection shall apply only to  
24 misdemeanors not involving physical injury or sexual contact.
- 25 (6) ~~{The provisions of this section shall not apply to a defendant who is found by the~~  
26 ~~court to present a flight risk or to be a danger to others.~~
- 27 (7) ~~If a court determines that a defendant shall not be released pursuant to subsection~~



1       ~~(6) of this section, the court shall document the reasons for denying the release in a~~  
2       ~~written order.~~

3       ~~(8)~~—]The Administrative Office of the Courts shall establish pilot projects to implement  
4       controlled substance or alcohol abuse testing as specified under this subsection. If  
5       the person's record indicates a history of controlled substance or alcohol abuse, the  
6       court may order the person to submit to periodic testing for use of controlled  
7       substances or alcohol and to pay a reasonable fee, not to exceed the actual cost of  
8       the test and analysis, as determined by the court, with the fee to be collected by the  
9       circuit clerk, held in an agency account, and disbursed, on court order, solely to the  
10      agency or agencies responsible for testing and analysis as compensation for the cost  
11      of the testing and analysis performed under this subsection. If the person is declared  
12      indigent, the testing fee may be waived by the court. If the court finds the conditions  
13      of release have not been complied with, the court may change the conditions  
14      imposed or forfeit the bail bond or any portion thereof and enter a judgment for the  
15      Commonwealth against the person and his surety or sureties for the amount of the  
16      bail bond or any portion thereof and the cost of the proceedings.

17      ➔Section 33. KRS 431.530 is amended to read as follows:

- 18      (1) Any person who has been permitted to execute a bail bond in accordance with KRS  
19      431.520(3)(b) shall deposit with the clerk of the court before which the action is  
20      pending a sum of money equal to ten percent (10%) of the bail, but in no event shall  
21      such deposit be less than ten dollars (\$10)~~—unless the defendant earned full credit~~  
22      ~~toward the applicable amount of bail pursuant to KRS 431.066, in which case the~~  
23      ~~defendant shall not be required to make a deposit with the clerk of the court].~~
- 24      (2) Upon depositing said sum the defendant shall be released from custody subject to  
25      all conditions of release imposed by the court.
- 26      (3) Except as provided in subsection (5) of this section, if the conditions of release have  
27      been performed and the defendant has been discharged from all obligations in the

1 action the clerk of the court shall return to the defendant, unless the court orders  
2 otherwise, ninety percent (90%) of the sum deposited and shall retain as bail costs  
3 ten percent (10%) of the amount deposited; provided, however, in no event shall the  
4 amount retained by the clerk as bail costs be less than five dollars (\$5). It is further  
5 provided that the court shall order the clerk of court to pay into the public advocate  
6 special account any amount of the sum deposited by the defendant, in excess of bail  
7 costs, which in its sound discretion represents a reasonable fee for any public  
8 advocate legal or investigative services provided for the defendant under KRS  
9 Chapter 31, but in no event shall the amount so paid to the public advocate special  
10 account as public advocate legal and investigative fees be less than five dollars (\$5)  
11 per case. At the request of the defendant the court may order the amount repayable  
12 to defendant from such deposit to be paid to defendant's attorney of record.

13 (4) Except as provided in subsection (5) of this section, if a final judgment for a fine  
14 and court costs or either is entered in the prosecution of an action in which a deposit  
15 has been made in accordance with subsection (1) of this section, the balance of such  
16 deposit, after deduction of bail costs and public advocate fees as provided for in  
17 subsection (3) of this section, shall be applied to the satisfaction of the judgment.

18 (5) If the defendant has performed all conditions of release and if the defendant is  
19 found not guilty of the offense for which bail was posted, or if all charges against  
20 him relating to the offense for which bail was posted are dropped or dismissed, then  
21 all bail money deposited by the defendant or by another person on his behalf shall  
22 be returned to him with no deductions therefrom as provided in subsection (3) or (4)  
23 of this section.

24 ➔Section 34. KRS 431.540 is amended to read as follows:

25 The Supreme Court may by rule or order prescribe a uniform schedule of amounts of bail  
26 in designated nonviolent Class D felonies, misdemeanors, and violations *for those*  
27 *defendants eligible for monetary bond under Section 28 of this Act;*

1 (1) Except as provided in subsection (2) of this section, when the amount of bail is  
2 fixed by such rule or order of the Supreme Court for a particular offense, the clerk  
3 of the court or other public officers so authorized by the court's order shall accept  
4 cash bail in the prescribed amount or the deposit authorized by KRS 431.530 and  
5 release the defendant to appear in accordance with the conditions of the bail bond.  
6 A receipt shall be delivered to the defendant for the bail so taken and within a  
7 reasonable time such bail shall be deposited with the clerk of the court having  
8 jurisdiction of the offense.

9 (2) A court may, in the exercise of its reasonable discretion, refuse to set bail in the  
10 amount prescribed by such rule or order of the Supreme Court, but, in so doing, the  
11 court must set forth in writing its reasons for such refusal.

12 ➔Section 35. KRS 452.260 is amended to read as follows:

13 If the defendant is in custody, the order for the change of venue shall be accompanied by  
14 an order for his removal by the sheriff or jailer of the county in which he is held, with  
15 such sufficient guard as the court directs, and for his delivery to the jailer of the county  
16 where the trial is to be held. If the defendant is under recognizance or bond for his  
17 appearance, he shall ***be ordered to appear before***~~[, before the order is granted, give~~  
18 ~~sufficient bail for his appearance at] the proper court~~~~[, or be surrendered into the custody~~  
19 ~~of the proper officer].~~

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

21 431.021 Guaranteed arrest bond certificate of surety company to be accepted in lieu of  
22 cash bail in traffic cases.

23 ➔Section 37. KRS 431.510 is amended to read as follows:

24 (1) It shall be unlawful for any person to engage in the business of bail bondsman as  
25 defined in subsection (3) of this section, or to otherwise for compensation or other  
26 consideration:

27 (a) Furnish bail or funds or property to serve as bail; or

1 (b) Make bonds or enter into undertakings as surety;  
2 for the appearance of persons charged with any criminal offense or violation of law  
3 or ordinance punishable by fine, imprisonment or death, before any of the courts of  
4 this state, including city courts, or to secure the payment of fines imposed and of  
5 costs assessed by such courts upon a final disposition.

6 (2) Nothing contained herein shall serve to release any bail bondsman heretofore  
7 licensed by this state from the obligation of undischarged bail bond liability existing  
8 on June 19, 1976.

9 (3) "Bail bondsman" shall mean any person, partnership, or corporation engaged for  
10 profit in the business of furnishing bail, making bonds or entering into undertakings,  
11 as surety, for the appearance of persons charged with any criminal offense or  
12 violation of law or ordinance punishable by fine, imprisonment, or death, before any  
13 of the courts of this state, or securing the payment of fines imposed and of costs  
14 assessed by such courts upon final disposition thereof, and the business of a bail  
15 bondsman shall be limited to the acts, transactions, and undertakings described in  
16 this subsection and to no other.

17 (4) KRS 431.510 to 431.550 shall not be construed to ~~limit or repeal KRS 431.021 or~~  
18 ~~to~~ prevent licensed insurers providing security required by Subtitle 39 of KRS  
19 Chapter 304 and nonprofit associations from posting or causing to be posted by  
20 licensed insurers security or acting as surety for their insureds or members for an  
21 offense arising from the operation of a motor vehicle, provided that such posting of  
22 security or acting as surety is merely incidental to the terms and conditions of an  
23 insurance contract or a membership agreement and provided further that no separate  
24 premium or charge therefor is required from the insureds or members.

25 ➔Section 38. Sections 27 to 37 of this Act take effect January 1, 2019.

26 ➔Section 39. This Act shall be known as the Women's Dignity in the Justice  
27 System Act.