

1 AN ACT relating to administrative parole.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 439.250 TO 439.560 IS CREATED
4 TO READ AS FOLLOWS:

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

6 *(a) "Eligible inmate" means an inmate who:*

7 *1. Is eligible for parole;*

8 *2. Is incarcerated for a Class C or D felony; and*

9 *3. Does not qualify as a violent offender as defined in KRS 439.3401 or a*
10 *sex offender as defined in KRS 17.550; and*

11 *(b) "Serious disciplinary violation" means a Category III or IV violation as*
12 *defined by administrative regulations promulgated by the department.*

13 *(2) The board shall administratively release an eligible inmate on parole on the*
14 *inmate's parole eligibility date.*

15 *(3) No parole hearing shall be required for the board to administratively release an*
16 *eligible inmate on parole pursuant to subsection (2) of this section, if:*

17 *(a) A victim of the offense or a Commonwealth's attorney who prosecuted the*
18 *offense has not requested that the board conduct a hearing;*

19 *(b) The inmate has not had a serious disciplinary violation within a year of his*
20 *or her parole eligibility date; and*

21 *(c) The inmate has agreed to the conditions of parole set by the board.*

22 *(4) Prior to an eligible inmate's parole eligibility date, the board shall provide*
23 *notification in the manner detailed in subsection (5)(b) and (d) of Section 2 of*
24 *this Act to any identified victim and to the Commonwealth's attorney who*
25 *prosecuted the offense. The notice shall include the name and address of a board*
26 *employee to write if the recipient of the notice desires to submit a written request*
27 *for a hearing. If, at any time prior to the eligible inmate's parole eligibility date,*

1 **the board receives a written or in-person request for a hearing from a recipient of**
2 **the notice, the board shall hold a parole hearing.**

3 ➔Section 2. KRS 439.340 is amended to read as follows:

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

20 (2) Before granting the parole of any prisoner, the board shall consider the pertinent
21 information regarding the prisoner, including the results of his or her most recent
22 risk and needs assessment, and, **except as provided in Section 1 of this Act,** shall
23 have him or her appear before it for interview and hearing. The board in its
24 discretion may hold interviews and hearings for prisoners convicted of Class C
25 felonies not included within the definition of "violent offender" in KRS 439.3401
26 and Class D felonies. The board in its discretion may request the parole board of
27 another state confining prisoners pursuant to KRS 196.610 to interview eligible

1 prisoners and make a parole recommendation to the board. A parole shall be
2 ordered only for the best interest of society and not as an award of clemency, and it
3 shall not be considered a reduction of sentence or pardon. A prisoner shall be placed
4 on parole only when arrangements have been made for his or her proper
5 employment or for his or her maintenance and care, and when the board believes he
6 or she is able and willing to fulfill the obligations of a law abiding citizen.
7 Notwithstanding any statute to the contrary, including KRS 440.330, when a
8 prisoner is otherwise eligible for parole and the board has recommended parole for
9 that prisoner for the reasons set forth in this subsection, the board may grant parole
10 to any prisoner wanted as a fugitive by any other jurisdiction, and the prisoner shall
11 be released to the detainer from that jurisdiction. Such parole shall not constitute a
12 relinquishment of jurisdiction over the prisoner, and the board in all cases expressly
13 reserves the right to return the prisoner to confinement in a correctional institution
14 of the Commonwealth if the prisoner violates the terms of his or her parole.

15 (3) (a) A nonviolent offender convicted of a Class D felony with an aggregate
16 sentence of one (1) to five (5) years who is confined to a state penal institution
17 or county jail shall have his or her case reviewed by the Parole Board after
18 serving fifteen percent (15%) or two (2) months of the original sentence,
19 whichever is longer.

20 (b) Except as provided in this section, the board shall adopt administrative
21 regulations with respect to the eligibility of prisoners for parole,
22 administrative parole pursuant to Section 1 of this Act, the conduct of parole
23 and parole revocation hearings and all other matters that come before it, or
24 conditions to be imposed upon parolees. Regulations governing the eligibility
25 of prisoners for parole shall be in accordance with professionally accepted
26 ideas of correction and reform and may utilize in part objective, performance-
27 based criteria and risk and needs assessment information; however, nothing

1 herein contained shall preclude the board from utilizing its present regulations
2 in conjunction with other factors involved that would relate to the inmate's
3 needs and the safety of the public.

4 (4) The board shall insure that all sentenced felons who have longer than ninety (90)
5 days to serve in state penal institutions, halfway houses, reentry centers, and county
6 jails are considered for parole not less than sixty (60) days prior to their parole
7 eligibility date, and the Department of Corrections shall provide the necessary
8 assistance and information to the board in order for it to conduct timely parole
9 reviews.

10 (5) (a) In addition to or in conjunction with each hearing conducted under subsection
11 (2) of this section for any prisoner convicted of a Class A, B, or C felony and
12 prior to the granting of a parole to any such prisoner, the parole board shall
13 conduct a hearing of which the following persons shall receive not less than
14 forty-five (45) nor more than ninety (90) days' notice: the Commonwealth's
15 attorney who shall notify the sheriff of every county and the chief of police of
16 every city and county in which the prisoner committed any Class A, B, or C
17 felony for which he or she is imprisoned, and all identified victims of the
18 crimes or the next of kin of any victim who is deceased.

19 (b) Notice to the Commonwealth's attorney shall be by mail, fax, or electronic
20 means at the discretion of the board, and shall be in a manner that ensures
21 receipt at the Commonwealth attorney's business office.

22 (c) Notices received by chiefs of police and sheriffs shall be posted in a
23 conspicuous location where police employed by the department may see it.
24 Notices shall be posted in a manner and at a time that will allow officers to
25 make comment thereon to the Parole Board.

26 (d) 1. Notice to victims or their next of kin shall be made, for prisoners
27 incarcerated prior to July 15, 1986, by mail, fax, or electronic means at

1 the discretion of the board, and shall be in a manner that ensures receipt
2 by the Commonwealth's attorney, who shall forward the notice promptly
3 to the victims or their next of kin at their last known address.

4 2. For prisoners incarcerated on or after July 15, 1986, notice to the victims
5 or their next of kin shall be by mail from the Parole Board to their last
6 known address as provided by the Commonwealth's attorney to the
7 Parole Board at the time of incarceration of the prisoner.

8 3. Notice to the victim or the next of kin of subsequent considerations for
9 parole after the initial consideration shall not be sent if the victim or the
10 next of kin gives notice to the board that he or she no longer wants to
11 receive such notices.

12 (e) The notice shall include the time, date, and place of the hearing provided for
13 in this subsection, and the name and address of a person to write if the
14 recipient of the notice desires to attend the hearing or to submit written
15 comments.

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

1 received by the board not less than seven (7) days prior to the date set for the
2 hearing, of their intention to attend the hearing. The board shall receive and
3 consider all comments, shall make a record of them which it shall retain in the
4 prisoner's permanent Parole Board file, and shall consider them in conjunction with
5 any subsequent parole decision affecting the prisoner. Persons appearing before the
6 Parole Board pursuant to this subsection may elect to make their presentations
7 outside of the presence of the prisoner.

8 (7) Victims of Class D felonies may submit comments in person or in writing to the
9 board upon all issues relating to the parole of a prisoner.

10 (8) Any hearing provided for in subsections (5), (6), and (7) of this section shall be
11 open to the public unless the persons having a right to appear before the board as
12 specified in those subsections request closure of hearing for reasons of personal
13 safety, in which event the hearing shall be closed. The time, date, and location of
14 closed hearings shall not be disclosed to the public.

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

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

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

27 (12) Any prisoner who is granted parole after completion of the Sexual Offender

1 Treatment Program shall be required, as a condition of his or her parole, to
2 participate in regular treatment in a mental health program approved or operated by
3 the Department of Corrections.

4 (13) When the board grants parole contingent upon completion of a program, the
5 commissioner, or his or her designee, shall determine the most appropriate
6 placement in a program operated by the department or a residential or nonresidential
7 program within the community approved by the department. If the department
8 releases a parolee to a nonresidential program, the department shall release the
9 parolee only if he or she will have appropriate community housing pursuant to KRS
10 439.3408.

11 (14) If the parole board does not grant parole to a prisoner, the maximum deferment for a
12 prisoner convicted of a non-violent, non-sexual Class C or Class D felony shall be
13 twenty-four (24) months. For all other prisoners who are eligible for parole:

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

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

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

18 ➔Section 3. KRS 439.3406 is amended to read as follows:

19 (1) The board shall order mandatory reentry supervision six (6) months prior to the
20 projected completion date of an inmate's sentence for an inmate who has not been
21 granted discretionary parole **or administrative parole pursuant to Section 1 of this**
22 **Act.**

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

24 (a) Is not eligible for parole by statute;

25 (b) Has been convicted of a capital offense or a Class A felony;

26 (c) Has a maximum or close security classification as defined by administrative
27 regulations promulgated by the department;

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

1 board, the department shall use the results of the risk and needs assessment
2 administered pursuant to KRS 439.3104(1) to establish appropriate terms and
3 conditions of supervision, taking into consideration the level of risk to public
4 safety, criminal risk factors, and the need for treatment and other
5 interventions. The terms and conditions imposed by the department under this
6 paragraph shall not conflict with the general conditions adopted by the board
7 pursuant to paragraph (a) of this subsection; and

8 (c) The powers and duties assigned to the commissioner in relation to probation
9 or parole under KRS 439.470 shall be assigned to the commissioner in
10 relation to mandatory reentry supervision.

11 (7) Subject to subsection (3) of this section, the period of mandatory reentry
12 supervision shall conclude upon completion of the individual's minimum expiration
13 of sentence.

14 (8) If the board issues a warrant for the arrest of an inmate for absconding from
15 supervision during the mandatory reentry supervision period, and the inmate is
16 subsequently returned to prison as a violator of conditions of supervision for
17 absconding, the inmate shall not receive credit toward the remainder of his or her
18 sentence for the time spent absconding.

19 (9) The department shall report the results of the mandatory reentry supervision
20 program to the Interim Joint Committee on Judiciary by February 1, 2015.