

1 AN ACT relating to pretrial release.

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

3 ➔Section 1. KRS 431.066 is amended to read as follows:

4 (1) For purposes of this section **and Section 2 of this Act:**~~[-]~~

5 **(a) "Additional nonfinancial conditions" means the least restrictive conditions**  
6 **necessary to ensure the appearance of the defendant for required court**  
7 **appearances and the safety of the public and drawn from the conditions**  
8 **listed in KRS 431.064, 431.518, and Section 5 of this Act.**

9 **(b) "Enhanced scrutiny offense" means a violation of KRS 189A.010(5)(c) and**  
10 **(d), 209.990(2), (3), and (4), 218A.1432, 507A.040, 507A.050, 508.020,**  
11 **508.025, 508.030 excluding minor injury or no visible injury, 508.040(2)(a)**  
12 **and (b), 508.050, 508.060, 508.075, 508.078, 508.100, 508.110, 508.120,**  
13 **508.140, 508.150, 509.020, 509.040, 510.120, 510.130, 511.020, 513.030,**  
14 **513.040, 515.020, 515.030, 518.090, 525.020, 527.205, 529.100, or 529.110;**

15 **(c) "Money bail" means any financial condition of release including cash,**  
16 **property, a percentage of cash bail, secured, unsecured, or otherwise;**

17 **(d) "Standard conditions" means the following:**

18 **1. The defendant shall not commit a local, state, or federal offense; and**

19 **2. The defendant shall appear for all required court appearances;**

20 **(e) "Verified and eligible defendant" means a defendant who pretrial services is**  
21 **able to interview and assess, and whose identity pretrial services is able to**  
22 **confirm through investigation; and**

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

27 (2) **No verified and eligible defendant shall be detained on money bail except for a**

1 high-risk defendant not charged with a violent or sexual offense who meets the  
 2 unsecured bail requirements of subsection (3) of Section 2 of this Act.

3 (3) (a) Pretrial services shall use a validated pretrial risk assessment tool to  
 4 determine whether a verified and eligible defendant presents a low,  
 5 moderate, or high risk of failing to appear for required court appearances  
 6 or committing criminal conduct while on pretrial release pending  
 7 adjudication.

8 (b) The validated pretrial risk assessment tool shall consider a defendant's risk  
 9 of failing~~[When a court considers pretrial release and bail for an arrested~~  
 10 ~~defendant, the court shall consider whether the defendant constitutes a flight~~  
 11 ~~risk, is unlikely] to appear for required court appearances~~[trial], or being~~~~[or~~  
 12 ~~is likely to be] a danger to the public if released. by considering factors that~~  
 13 may include but are not limited to prior failure to appear for scheduled  
 14 court appearances, prior criminal history, types of offenses, and any other  
 15 factors determined appropriate or necessary by pretrial services. The  
 16 validated pretrial risk assessment tool shall not consider or use as a factor  
 17 the defendant's race, ethnicity, national origin, immigration status, gender,  
 18 religion, sexual orientation, education level, disability, employment status,  
 19 socioeconomic status, housing status, age at first arrest, or zip code~~[In~~  
 20 ~~making this determination, the court shall consider the pretrial risk assessment~~  
 21 ~~for a verified and eligible defendant along with the factors set forth in KRS~~  
 22 ~~431.525].~~~~

23 (c) The validated pretrial risk assessment tool shall be regularly validated and  
 24 adjusted to ensure that it is predictive of pretrial outcomes and accurately  
 25 predicts risk across all racial groups, ethnic groups, and genders. The tool  
 26 shall be adjusted to ensure accuracy and to minimize disparate results.

27 ~~(4)~~~~(3)~~ (a) If a verified and eligible defendant:

- 1            1. Poses a low or moderate risk as determined under subsection (3) of  
 2            this section;  
 3            2. Has been charged with a violation, misdemeanor, or Class D felony;  
 4            3. Has not been charged with a violent or sexual offense;  
 5            4. Has not been charged with an enhanced scrutiny offense; and  
 6            5. Has not been charged with a violation of KRS 17.510, 17.545, 17.546,  
 7            17.549, 119.255, 189A.010(5)(b) to (d), 209.990, a second or  
 8            subsequent offense of 235.240, 403.763, 456.120, 456.180, 507.050,  
 9            508.030 with minor or no visible injury, 508.070, 508.080, 508.120,  
 10           508.155, 509.030, 509.080, 511.085, 514.080, 520.090, 524.040,  
 11           525.120, 525.125, 525.130, 525.135, 525.205, 527.020, 529.020,  
 12           529.040(2), 529.070, 529.080, 529.090, 530.010, 530.060, 531.020,  
 13           531.030, 531.040, 531.050, 531.060, 531.090, 531.100, 531.335,  
 14           531.340, 531.350, 531.360, or 531.370;  
 15           the defendant shall be released on his or her own recognizance by a pretrial  
 16           officer, unless the defendant has been convicted of a violent or sexual  
 17           offense within five (5) years prior to his current offense, in which case the  
 18           pretrial officer, upon approval of his or her pretrial supervisor, may refer  
 19           the defendant to the court.  
 20           (b) If a pretrial officer refers a defendant to the court pursuant to paragraph  
 21           (a) of this subsection, the court may order the defendant released on his or  
 22           her own recognizance subject to standard conditions and may impose  
 23           additional nonfinancial conditions.  
 24           (5) (a) When the court is making a bail determination for~~ff~~ a verified and eligible  
 25           defendant, if the defendant:  
 26           1. Poses a low risk as determined under subsection (3) of this section;  
 27           2. Has been charged with a Class A, B, or C felony; and

1           **3. Has not been charged with a violent or sexual offense or with an**  
 2           **enhanced scrutiny offense;**~~[of flight, is likely to appear for trial, and is~~  
 3           ~~not likely to be a danger to others,]~~  
 4           the court shall order the defendant released on **his or her**~~[unsecured bond or~~  
 5           ~~on the defendant's]~~ own recognizance subject to **standard**~~[such other]~~  
 6           ~~conditions[ as the court may order].~~

7           **(b) When the court is making a bail determination for a verified and eligible**  
 8           **defendant, if the defendant:**

9           **1. Poses a low risk as determined under subsection (3) of this section;**  
 10           **and**

11           **2. Has been charged with a violent or sexual offense or with an**  
 12           **enhanced scrutiny offense;**

13           **the court shall order the defendant released on his or her own recognizance**  
 14           **subject to standard conditions and may impose additional nonfinancial**  
 15           **conditions.**

16           **(6)[(4)] When the court is making a bail determination for**~~[H]~~ a verified and eligible  
 17           defendant, **if the defendant:**

18           **(a) Poses a moderate risk as determined under subsection (3) of this section;**  
 19           **and**

20           **(b) 1. Has been charged with a Class A, B, or C felony; or**  
 21           **2. Has been charged with a violent or sexual offense or with an**

22           **enhanced scrutiny offense;**~~[of flight, has a moderate risk of not~~  
 23           ~~appearing for trial, or poses a moderate risk of danger to others,]~~

24           the court shall **order**~~[release]~~ the defendant **released on his or her own**  
 25           **recognizance subject to standard**~~[under the same]~~ conditions~~[ as in subsection (3)~~  
 26           ~~of this section]~~ **and may impose additional nonfinancial conditions** ~~[but shall~~  
 27           ~~consider ordering the defendant to participate in global positioning system~~

1 monitoring, controlled substance testing, increased supervision, or such other  
2 conditions as the court may order].

3 ~~(7)~~<sup>(5)</sup> (a) When the court is making a bail determination for a verified and  
4 eligible defendant, if the defendant:

5 1. Poses a high risk as determined under subsection (3) of this section;

6 2. Has been charged with a violation, misdemeanor, or Class D felony;

7 and

8 3. Has not been charged with a violent or sexual offense or with an  
9 enhanced scrutiny offense;

10 the court shall order the defendant released on his or her own recognizance  
11 subject to standard conditions and may impose additional nonfinancial  
12 conditions.

13 (b) When the court is making a bail determination for a verified and eligible  
14 defendant, if the defendant:

15 1. Poses a high risk as determined under subsection (3) of this section;

16 2. Has been charged with a Class A, B, or C felony; and

17 3. Has not been charged with a violent or sexual offense or with an  
18 enhanced scrutiny offense;

19 the court may order the defendant released on his or her own recognizance  
20 subject to standard conditions, may impose additional nonfinancial  
21 conditions, or may, either on its own or by motion of the prosecutor, detain  
22 the defendant until a detention hearing is held pursuant to Section 2 of this  
23 Act.

24 (c) When the court is making a bail determination for a verified and eligible  
25 defendant, if the defendant:

26 1. Poses a high risk; and

27 2. Has been charged with a violent or sexual offense or with an

1                    enhanced scrutiny offense;  
 2                    the court shall detain the defendant until a detention hearing is held  
 3                    pursuant to Section 2 of this Act.

4 (8) If a verified and eligible defendant has been charged with a felony offense under  
 5 KRS Chapter 218A:

6 (a) In addition to any conditions outlined in paragraph (b) of this subsection,  
 7 the defendant may be subject to any substance abuse screening or treatment  
 8 recommended by pretrial services as ordered by the court;

9 (b) Pretrial services shall perform substance abuse screenings and may refer  
 10 the defendant for substance abuse treatment; and

11 (c) A defendant's refusal to participate in the screening shall not disqualify the  
 12 defendant from being granted pretrial release.

13 (9) The Supreme Court may make any procedural rules necessary to implement the  
 14 provisions of this section.

15 (10) A bail determination pursuant to this section shall be made within forty-eight  
 16 (48) hours of a verified and eligible defendant being detained

17 ~~[(a) Except as provided in paragraph (b) of this subsection, regardless of the amount of the bail set, the court shall permit the defendant a credit of one hundred dollars (\$100) per day as a payment toward the amount of the bail set for each day or portion of a day that the defendant remains in jail prior to trial. Upon the service of sufficient days in jail to have sufficient credit to satisfy the bail, the defendant shall be released from jail on the conditions specified in this section or in this chapter.~~

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

- 24 1. ~~Any person convicted of, pleading guilty to, or entering an Alford plea~~
- 25 ~~to a felony offense under KRS Chapter 510, KRS 529.100 involving~~
- 26 ~~commercial sexual activity, KRS 530.020, 530.064(1)(a), 531.310, or~~
- 27 ~~531.320, or who is a violent offender as defined in KRS 439.3401; or~~

1           2.—A defendant who is found by the court to present a flight risk or to be a  
2           danger to others.

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

5           (d)—A defendant shall not earn credit pursuant to paragraph (a) of this subsection  
6           while also earning credit pursuant to KRS 534.070.

7    (6)—If a court determines that a defendant shall not be released pursuant to subsection  
8           (5) of this section, the court shall document the reasons for denying the release in a  
9           written order.

10   (7)—The jailer shall be responsible for tracking the credit earned by a defendant pursuant  
11           to subsection (5) of this section}.

12           ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO  
13    READ AS FOLLOWS:

14    *(1) A detention hearing that comports with due process shall be held within five (5)*  
15           *days of a verified and eligible defendant being detained pursuant to Section 1 of*  
16           *this Act. The detention hearing may be held at arraignment.*

17    *(2) (a) At the detention hearing, if the defendant poses a high risk and was*  
18           *detained pursuant to Section 1 of this Act but is not eligible for unsecured*  
19           *bail pursuant to subsection (3) of this section, the court shall determine*  
20           *whether any additional nonfinancial conditions shall reasonably ensure the*  
21           *appearance of the defendant for required court appearances and the safety*  
22           *of the public.*

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

26           *1. Whether the offense involves violence, obstruction of public*  
27           *administration under KRS Chapter 519, or interference with judicial*

- 1                   administration under KRS Chapter 524; and
- 2           2. The history and characteristics of the defendant, including:
- 3                   a. The defendant's physical and mental condition, family ties,
- 4                           employment, financial resources, length of residence in the
- 5                           community, community ties, past conduct, history relating to
- 6                           drug or alcohol abuse, criminal history, and record concerning
- 7                           appearance at court proceedings;
- 8                   b. Whether, at the time of the current offense or arrest, the
- 9                           defendant was on probation, on parole, on supervised release, or
- 10                           on other release pending trial, sentencing, appeal, or completion
- 11                           of sentence for an offense under local, state, or federal law; and
- 12                   c. The nature and seriousness of the danger to any person or the
- 13                           community that would be posed by the defendant's release.
- 14           (c) After considering the information outlined in paragraph (b) of this
- 15                   subsection, if the court finds by clear and convincing evidence that no
- 16                   additional nonfinancial conditions shall reasonably ensure the appearance
- 17                   of the defendant for required court appearances and the safety of the public,
- 18                   the court shall order the defendant detained before trial.
- 19   (3) At the detention hearing, if the defendant:
- 20                   (a) Poses a high risk and was detained pursuant to Section 1 of this Act;
- 21                   (b) Poses a risk of failing to appear for required court appearances;
- 22                   (c) Does not pose a danger to the public if released; and
- 23                   (d) Has not been charged with a violent or sexual offense;
- 24                   the court may impose unsecured bail in addition to any additional nonfinancial
- 25                   conditions for the sole purpose of reasonably ensuring the appearance of the
- 26                   defendant for required court appearances. The court shall not impose unsecured
- 27                   bail to ensure the protection or the safety of the community, to ensure that the



1 defendant will not obstruct or attempt to obstruct the criminal justice process, or  
2 for the purpose of preventing the release of the defendant. If imposed, the amount  
3 of unsecured bail shall be set in accordance with Section 6 of this Act.

4 (4) At the detention hearing, the defendant shall:

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

7 (b) Be afforded an opportunity to testify. However, the defendant's testimony  
8 shall not be admissible on the issue of guilt in any other judicial  
9 proceedings, except for those proceedings under KRS 520.070 and 520.080,  
10 in revocation hearings, in perjury proceedings, and for the purpose of  
11 impeachment in any subsequent proceedings.

12 (5) After the court has determined pursuant to this section to either detain or release  
13 a verified and eligible defendant prior to trial, the court shall make written  
14 findings of fact and a written statement for the reasons for the decision. The  
15 determination may be reviewed at any time before trial by the court either upon  
16 its own motion or upon motion of either party if:

17 (a) The court finds that information exists that was not known to the movant at  
18 the time of the determination and that has a material bearing on the issue  
19 of whether there are conditions of release that will reasonably ensure the  
20 appearance of the defendant for required court appearances or the safety of  
21 the public; or

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

27 (6) Nothing in this section shall be construed as modifying or limiting the verified

1 *and eligible defendant's presumption of innocence.*

2 ➔Section 3. KRS 27A.360 is amended to read as follows:

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

- 5 (1) Whether or not the defendant was released on bail or pretrial release;
- 6 (2) If *the defendant is* released on *unsecured* bail *under Section 2 of this Act:*
- 7 (a) The amount of the bail;
- 8 (b) ~~Whether the bail was cash, property, a percentage of cash bail, secured,~~  
9 ~~unsecured, or otherwise;~~
- 10 (c) ~~Whether the conditions of bail were satisfied; and~~
- 11 *(c)*~~(d)~~ Whether or not the bail was ~~returned,~~ forfeited *or*~~,~~ credited to the  
12 public advocate or otherwise; *and*
- 13 (3) If released on any other form of pretrial release:
- 14 (a) Whether or not released on own recognizance;
- 15 (b) Whether release was upon conditions, if so what conditions; and
- 16 (c) Whether the conditions of release were satisfied.

17 ➔Section 4. KRS 222.204 is amended to read as follows:

- 18 (1) A person who has been arrested and placed in jail prior to trial for violation of KRS  
19 222.202 and has not had two (2) prior convictions in the previous twelve (12)  
20 months for violation of KRS 222.202 shall be released ~~as set forth by the Supreme~~  
21 ~~Court Rule of Criminal Procedure uniform schedule of bail~~;
- 22 (a) To an adult who is willing to accept responsibility for the defendant through a  
23 signature verification on a form determined by the Administrative Office of  
24 the Courts;
- 25 (b) ~~If he pays the requisite amount of bail on a bail schedule issued by the court;~~  
26 (c) ~~At such time as he is able to safely care for himself but in no event shall he~~  
27 be detained for more than eight (8) hours following his arrest;

1        ~~(c)~~~~(d)~~ If he is ordered released by a court of competent jurisdiction; or

2        ~~(d)~~~~(e)~~ Unless such person's release is precluded by other provisions of law.

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

6        ➔Section 5. KRS 431.520 is amended to read as follows:

7        **Except as provided in Sections 1 and 2 of this Act,** any person charged with an offense  
8        shall be ordered released by a court of competent jurisdiction pending trial on his  
9        personal recognizance **and** ~~for upon the execution of an unsecured bail bond in an amount~~  
10       ~~set by the court or as fixed by the Supreme Court as provided by KRS 431.540, unless the~~  
11       ~~court determines in the exercise of its discretion that such a release will not reasonably~~  
12       ~~assure the appearance of the person as required, or the court determines the person is a~~  
13       ~~flight risk or a danger to others. When such a determination is made,]the court **may**[shall,~~  
14       ~~either in lieu of or in addition to the above methods of release,] impose any of the~~  
15       following conditions of release:

16       (1) Place the person in the custody of a designated person or organization agreeing to  
17       supervise him;

18       (2) Place restrictions on the travel, association, or place of abode of the person during  
19       the period of release;

20       (3) ~~Require the execution of a bail bond:~~

21       ~~(a) With sufficient personal surety or sureties acceptable to the court; in~~  
22       ~~determining the sufficiency of such surety or sureties, the court shall consider~~  
23       ~~his character, his place of residence, his relationship with the defendant, and~~  
24       ~~his financial and employment circumstances; or~~

25       ~~(b) With the ten percent (10%) deposit as provided in KRS 431.530; provided~~  
26       ~~that if the defendant is permitted to earn credit toward bail pursuant to KRS~~  
27       ~~431.066, that credit shall be applied to the ten percent (10%) deposit; or~~

1       ~~(c) With the deposit of cash equal to the amount of the bond or in lieu thereof~~  
2           ~~acceptable security as provided in KRS 431.535;~~

3       ~~(4) If the person's record indicates a history of controlled substance or alcohol abuse:~~

4           (a) Order the person to submit to periodic testing for use of controlled substances  
5           or alcohol. **The court shall not require the defendant to pay a fee for the**  
6           **testing** ~~and pay a reasonable fee, not to exceed the actual cost of the test and~~  
7           ~~analysis, as determined by the court with the fee to be collected by the circuit~~  
8           ~~clerk, held in an agency account, and disbursed, on court order, solely to the~~  
9           ~~agency or agencies responsible for testing and analysis as compensation for~~  
10          ~~the cost of the testing and analysis performed under this subsection. If the~~  
11          ~~person is declared indigent, the testing fee may be waived by the court. The~~  
12          ~~Administrative Office of the Courts shall establish pilot projects to implement~~  
13          ~~the provisions of this subsection]; or~~

14          (b) Order the person to use an alcohol monitoring device, as defined in KRS  
15          431.068. **The court shall not require the defendant to pay any** ~~[All]~~ costs  
16          associated with the device, including administrative and operating costs ~~], shall~~  
17          ~~be paid by the defendant. If the court determines that the defendant is indigent,~~  
18          ~~and a person, county, or other organization has not agreed to pay the costs for~~  
19          ~~the defendant in an attempt to reduce incarceration expenses and increase~~  
20          ~~public safety, the court shall consider other conditions of release provided for~~  
21          ~~in this section];~~

22       ~~(4)~~ ~~(5)~~ (a) During all or part of a person's period of release pursuant to this section,  
23          order the person to participate in a global positioning monitoring system  
24          program operated by a county pursuant to KRS 67.372 and 67.374 under the  
25          same terms and conditions provided under KRS 431.517.

26          (b) If the person is charged with a sex crime as defined in KRS 17.500, consider  
27          requiring that he or she be monitored electronically, and shall consider

1 requiring the person be subject to home incarceration.~~;~~

2 (c) The court shall not require the defendant to pay any costs associated with  
3 monitoring or home incarceration.

4 ~~(5)(6)~~ Impose any nonfinancial conditions~~[other condition]~~ deemed reasonably  
5 necessary to assure appearance as required, including a condition requiring that the  
6 person return to custody after specified hours;

7 ~~(6)(7)~~ A court authorizing the release of a person pursuant to this section shall cause  
8 the issuance of an appropriate order containing a statement of the conditions  
9 imposed, if any, shall cause such person to be informed of the penalties applicable  
10 to violations of the conditions of his release, and shall cause him to be informed that  
11 a warrant for his arrest will be issued immediately upon any such violation;

12 ~~(7)(8)~~ A person for whom conditions of release are imposed and who after twenty-  
13 four (24) hours from the time of the imposition of said conditions continues to be  
14 detained as a result of his inability to meet the conditions of release shall, upon  
15 written application or upon the court's own motion, be entitled to have the  
16 conditions reviewed by the court which imposed them. A person who is ordered  
17 released on a condition which requires that he return to custody after specified hours  
18 shall, upon written application or upon the court's own motion, be entitled to a  
19 review by the court which imposed the condition; or

20 ~~(8)(9)~~ If at any time following release of a defendant and before he is required to  
21 appear for trial, the court is advised of a material change in the defendant's  
22 circumstances or that he has not complied with all conditions imposed upon his  
23 release, the court having jurisdiction may:

24 (a) Order the arrest of the defendant;

25 (b) Enter an order requiring the defendant~~[, his surety or sureties]~~ to appear and  
26 show cause why the~~[ bail bond should not be forfeited or the]~~ conditions of  
27 his release should not be changed; or

1 (c) Both.

2 A copy of said order shall be served upon the defendant~~[, his surety or sureties]~~. If  
3 the defendant fails to appear before the court as ordered or if, after hearing, the  
4 court finds the conditions of release have not been complied with, the court may  
5 change the conditions imposed~~[or forfeit the bail bond or any portion thereof]~~ and  
6 enter a judgment for the Commonwealth against the defendant~~[and his surety or~~  
7 ~~sureties]~~ for the amount of the bail bond or any portion thereof and cost of the  
8 proceedings.

9 ➔Section 6. KRS 431.525 is amended to read as follows:

10 (1) **For those eligible for unsecured bail under Section 2 of this Act,** the amount of  
11 the **unsecured** bail shall be:

- 12 (a) Sufficient to insure compliance with the conditions of release set by the court;  
13 (b) Not oppressive;  
14 (c) Commensurate with the nature of the offense charged;  
15 (d) Considerate of the past criminal acts and the reasonably anticipated conduct of  
16 the defendant if released; and  
17 (e) Considerate of the financial ability of the defendant.

18 (2) When a person is **eligible for unsecured bail under Section 2 of this Act and is**  
19 charged with an offense punishable by fine only, the amount of the bail bond set  
20 shall not exceed the amount of the maximum penalty and costs.

21 (3) When a person **is eligible for unsecured bail under Section 2 of this Act and** has  
22 been convicted of an offense and only a fine has been imposed, the amount of the  
23 bail shall not exceed the amount of the fine.

24 (4) When a person **is eligible for unsecured bail under Section 2 of this Act and** has  
25 been charged with one (1) or more misdemeanors, the amount of the bail for all  
26 charges shall be encompassed by a single amount of bail that shall not exceed the  
27 amount of the fine and court costs for the one (1) highest misdemeanor charged.

1 This subsection shall apply only to misdemeanor offenses not involving physical  
2 injury or sexual contact.

3 (5) When a person is eligible for unsecured bail under Section 2 of this Act and has  
4 been convicted of a misdemeanor offense and a sentence of jail, probation,  
5 conditional discharge, or sentence other than a fine only has been imposed, the  
6 amount of bail for release on appeal shall not exceed double the amount of the  
7 maximum fine that could have been imposed for the one (1) highest misdemeanor  
8 offense for which the person was convicted. This subsection shall apply only to  
9 misdemeanors not involving physical injury or sexual contact.

10 ~~(6) [The provisions of this section shall not apply to a defendant who is found by the~~  
11 ~~court to present a flight risk or to be a danger to others.~~

12 ~~(7) If a court determines that a defendant shall not be released pursuant to subsection~~  
13 ~~(6) of this section, the court shall document the reasons for denying the release in a~~  
14 ~~written order.~~

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

1 bail bond or any portion thereof and the cost of the proceedings.

2 ➔Section 7. KRS 452.260 is amended to read as follows:

3 If the defendant is in custody, the order for the change of venue shall be accompanied by  
4 an order for his removal by the sheriff or jailer of the county in which he is held, with  
5 such sufficient guard as the court directs, and for his delivery to the jailer of the county  
6 where the trial is to be held. If the defendant is under recognizance or ***unsecured*** bond for  
7 his appearance, he shall ***be ordered to appear before*** ~~before the order is granted, give~~  
8 ~~sufficient bail for his appearance at~~ the proper court~~, or be surrendered into the custody~~  
9 ~~of the proper officer~~.

10 ➔Section 8. KRS 431.510 is amended to read as follows:

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

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

15 (b) Make bonds or enter into undertakings as surety;

16 for the appearance of persons charged with any criminal offense or violation of law  
17 or ordinance punishable by fine, imprisonment or death, before any of the courts of  
18 this state, including city courts, or to secure the payment of fines imposed and of  
19 costs assessed by such courts upon a final disposition.

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

23 (3) "Bail bondsman" shall mean any person, partnership, or corporation engaged for  
24 profit in the business of furnishing bail, making bonds or entering into undertakings,  
25 as surety, for the appearance of persons charged with any criminal offense or  
26 violation of law or ordinance punishable by fine, imprisonment, or death, before any  
27 of the courts of this state, or securing the payment of fines imposed and of costs



1 assessed by such courts upon final disposition thereof, and the business of a bail  
 2 bondsman shall be limited to the acts, transactions, and undertakings described in  
 3 this subsection and to no other.

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

12 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO  
 13 READ AS FOLLOWS:

14 **The Administrative Office of the Courts shall collect and track data, and publish an**  
 15 **annual report on pretrial release containing the following information for each judge**  
 16 **in the Commonwealth:**

17 **(1) The number of individuals released on their own recognizance;**

18 **(2) The number of individuals released with conditions, which conditions were**  
 19 **imposed, and whether violations of these conditions were found;**

20 **(3) The number of individuals detained pretrial, and the length of time these**  
 21 **individuals were detained; and**

22 **(4) Demographic data regarding the race, gender, primary language, and economic**  
 23 **status of accused persons.**

24 ➔Section 10. The following KRS sections are repealed:

25 431.021 Guaranteed arrest bond certificate of surety company to be accepted in lieu of  
 26 cash bail in traffic cases.

27 431.530 Deposit of bail security -- Payments into public advocate special account --

- 1           Return of deposit when innocent or charges dropped or dismissed.
- 2   431.531   Statement of collections to be filed -- Funds to be sent to State Treasury --
- 3           Certification of amounts and publication of annual audit by administrative office of
- 4           the courts.
- 5   431.532   Bail deposits by person other than defendant.
- 6   431.535   Cash, stocks, bonds, or real estate as security for bail.
- 7   431.540   Uniform schedule of amounts of bail in designated nonviolent Class D felonies,
- 8           misdemeanors, and violations.
- 9           ➔Section 11. This Act takes effect January 1, 2020.