

1 AN ACT relating to corrections.

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

3 ➔Section 1. KRS 196.731 is amended to read as follows:

4 (1) The commission may:

5 (a) Approve up to five (5) pilot projects to grant performance incentive funding to
6 community corrections programs in judicial circuits with high rates of targeted
7 offenders who are ordered to serve a term of imprisonment; and

8 (b) Approve up to five (5) pilot projects to grant performance incentive funding to
9 community corrections programs in judicial circuits with high rates of
10 supervised individuals who are revoked for violations of their conditions of
11 supervision and ordered to serve a term of imprisonment.

12 (2) Upon development of an approved pilot project described in subsection (1)(a) of
13 this section, the commission shall quarterly~~annually~~ calculate:

14 (a) The percentage of targeted offenders in the judicial circuit for that pilot
15 project who are convicted of a felony offense and sentenced to a term of
16 imprisonment. This calculation shall be based on the corresponding fiscal
17 quarter from the fiscal year prior to the~~fiscal~~ year in which the pilot
18 program was implemented~~report is required pursuant to KRS 196.736~~. The
19 baseline shall be the percentage of targeted offenders convicted and
20 imprisoned for that judicial circuit in the corresponding fiscal quarter from
21 the fiscal year prior to the implementation of the pilot project; and

22 (b) Any state expenditures that have been avoided by reductions in the baseline
23 percentage as calculated in paragraph (a) of this subsection.

24 (3) Upon development of an approved pilot project described in subsection (1)(b) of
25 this section, the commission shall quarterly~~annually~~ calculate:

26 (a) The percentage of supervised individuals in the judicial circuit for that pilot
27 project who are revoked for violations of their conditions of supervision and

1 ordered to serve a term of imprisonment. This calculation shall be based on
 2 the corresponding fiscal quarter from the fiscal year prior to the ~~fiscal~~ year
 3 in which the pilot project was implemented ~~report is required pursuant to~~
 4 ~~KRS 196.736~~. The baseline revocation percentage shall be the percentage of
 5 revocations for that judicial circuit in the corresponding fiscal quarter from
 6 the fiscal year prior to the implementation of the pilot project; and

7 (b) Any state expenditures that have been avoided by reductions in the revocation
 8 percentage as calculated in paragraph (a) of this subsection.

9 ➔Section 2. KRS 196.732 is amended to read as follows:

10 (1) Beginning forty-five (45) days after the close of the first fiscal quarter in which ~~in~~
 11 ~~the fiscal year after~~ a pilot project has been implemented pursuant to KRS 196.731,
 12 fifty percent (50%) of any state expenditures that are avoided as calculated in KRS
 13 196.731 shall be deposited quarterly by the department in the community
 14 corrections fund, which shall be a separate, interest-bearing account within the State
 15 Treasury. The remaining fifty percent (50%) shall be deposited in the general fund.
 16 Amounts deposited in the community corrections fund, including interest, are
 17 hereby appropriated to the commission for the following purposes:

18 (a) Fifty percent (50%) paid quarterly to the community corrections program
 19 responsible for those savings; and

20 (b) Fifty percent (50%) to the Division of Probation and Parole.

21 (2) Notwithstanding KRS 45.229, any moneys remaining in the community corrections
 22 fund at the close of the fiscal year shall not lapse but shall carry forward into the
 23 next fiscal year to be used for the purposes outlined in this section ~~subsection~~.

24 (3) None of the calculated savings shall be appropriated to the commission for
 25 distribution if:

26 (a) In a pilot project developed pursuant to KRS 196.731(1)(a), there is an
 27 increase in the percentage of targeted offenders on probation who are

1 convicted of a new felony offense and sentenced to a term of imprisonment; or

2 (b) In a pilot project developed pursuant to KRS 196.731(1)(b), there is an
3 increase in the percentage of supervised individuals who are convicted of a
4 new felony offense.

5 (4) The moneys appropriated pursuant to this section shall be used to supplement, not
6 supplant, any other state or county appropriations for probation, parole or other
7 post-prison supervision services, or community corrections programs.

8 (5) Moneys received through appropriations pursuant to this section and KRS 196.731
9 shall be used for the following purposes:

10 (a) Implementing evidence-based practices;

11 (b) Creating, increasing, or improving the availability of risk reduction and
12 treatment programs and interventions, including substance abuse treatment
13 programs, for supervised individuals;

14 (c) Paying the costs of global positioning monitoring system for offenders of at
15 least medium risk; and

16 (d) Increasing the number of probation and parole staff, including equipment and
17 office space the officers and staff may need.

18 ➔Section 3. KRS 196.736 is amended to read as follows:

19 The Kentucky State Corrections Commission shall submit an annual report on the
20 implementation and results of any pilot projects developed pursuant to KRS 196.731 to
21 the Legislative Research Commission, the Chief Justice, and the Governor on or before
22 September 1 of each year. The report shall also include the *quarterly* calculations made
23 pursuant to KRS 196.731 and the resulting performance incentive funding appropriated,
24 if any.

25 ➔Section 4. KRS 532.100 (Effective January 1, 2019) is amended to read as
26 follows:

27 (1) When an indeterminate term of imprisonment is imposed, the court shall commit

1 the defendant to the custody of the Department of Corrections for the term of his
2 sentence and until released in accordance with the law.

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

6 (3) When a sentence of death is imposed, the court shall commit the defendant to the
7 custody of the Department of Corrections with directions that the sentence be
8 carried out according to law.

9 (4) (a) The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is
10 sentenced to an indeterminate term of imprisonment of five (5) years or less,
11 he shall serve that term in a county jail in a county in which the fiscal court
12 has agreed to house state prisoners; except that, when an indeterminate
13 sentence of two (2) years or more is imposed on a Class D felon convicted of
14 a sexual offense enumerated in KRS 197.410(1), or a crime under KRS
15 17.510(11) or (12), the sentence shall be served in a state institution. Counties
16 choosing not to comply with the provisions of this paragraph shall be granted
17 a waiver by the commissioner of the Department of Corrections.

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

23 (c) 1. The provisions of KRS 500.080(5) notwithstanding, and except as
24 provided in subparagraph 2. of this paragraph, a Class C or D felon with
25 a sentence of more than five (5) years who is classified by the
26 Department of Corrections as community custody shall serve that term
27 in a county jail in a county in which the fiscal court has agreed to house

- 1 state prisoners if:
- 2 a. Beds are available in the county jail;
- 3 b. State facilities are at capacity; and
- 4 c. Halfway house beds are being utilized at the contract level as of
- 5 July 15, 2000.
- 6 2. When an indeterminate sentence of two (2) years or more is imposed on
- 7 a felon convicted of a sex crime, as defined in KRS 17.500, or any
- 8 similar offense in another jurisdiction, the sentence shall be served in a
- 9 state institution.
- 10 3. Counties choosing not to comply with the provisions of this paragraph
- 11 shall be granted a waiver by the commissioner of the Department of
- 12 Corrections.
- 13 (d) Any jail that houses state inmates under this subsection shall offer programs
- 14 as recommended by the Jail Standards Commission. The Department of
- 15 Corrections shall adopt the recommendations of the Jail Standards
- 16 Commission and promulgate administrative regulations establishing required
- 17 programs for a jail that houses state inmates under this subsection.
- 18 (e) Before housing any female state inmate, a county jail shall be certified
- 19 pursuant to KRS 197.020.
- 20 **(f) Any jail which has been accredited by the American Correctional**
- 21 **Association shall have priority in accepting the transfers of state inmates**
- 22 **who qualify to serve time in county jails under this subsection.**
- 23 (5) The jailer of a county in which a Class D felon or a Class C felon is incarcerated
- 24 may request the commissioner of the Department of Corrections to incarcerate the
- 25 felon in a state corrections institution if the jailer has reasons to believe that the
- 26 felon is an escape risk, a danger to himself or other inmates, an extreme security
- 27 risk, or needs protective custody beyond that which can be provided in a county jail.

1 The commissioner of the Department of Corrections shall evaluate the request and
2 transfer the inmate if he deems it necessary. If the commissioner refuses to accept
3 the felon inmate, and the Circuit Judge of the county that has jurisdiction of the
4 offense charged is of the opinion that the felon cannot be safely kept in a county
5 jail, the Circuit Judge, with the consent of the Governor, may order the felon
6 transferred to the custody of the Department of Corrections.

7 (6) Class D felons and Class C felons serving their time in a local jail shall be
8 considered state prisoners, and the Department of Corrections shall pay the jail in
9 which the prisoner is incarcerated a per diem amount determined according to KRS
10 431.215(2). For other state prisoners and parole violator prisoners, the per diem
11 payments shall also begin on the date prescribed in KRS 431.215(2).

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

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

19 (b) The authority to release an inmate to work under this subsection may be
20 exercised at any time during the inmate's sentence, including the period when
21 the court has concurrent authority to permit work release pursuant to KRS
22 439.265.

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

1 release participation. In addition, the inmate may be required to pay for any
2 drug testing performed on the inmate as a requirement of the community work
3 program or work release participation.

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

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