

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, "verified and eligible defendant" means a defendant
5 who pretrial services is able to interview and assess, and whose identity pretrial
6 services is able to confirm through investigation.
- 7 (2) When a court considers pretrial release and bail for an arrested defendant, the court
8 shall consider whether the defendant constitutes a flight risk, is unlikely to appear
9 for trial, or is likely to be a danger to the public if released. In making this
10 determination, the court shall consider the pretrial risk assessment for a verified and
11 eligible defendant along with the factors set forth in KRS **431.064 and** 431.525.
- 12 (3) If a verified and eligible defendant poses low risk of flight, is likely to appear for
13 trial, and is not likely to be a danger to others, the court shall order the defendant
14 released on unsecured bond or on the defendant's own recognizance subject to such
15 other conditions as the court may order, **except as provided in subsection (5) of this**
16 **section.**
- 17 (4) If a verified and eligible defendant poses a moderate risk of flight, has a moderate
18 risk of not appearing for trial, or poses a moderate risk of danger to others, the court
19 shall release the defendant under the same conditions as in subsection (3) of this
20 section but ~~may~~^{shall} consider ordering the defendant to participate in global
21 positioning system monitoring, controlled substance testing, increased supervision,
22 or such other conditions as the court may order, **except as provided in subsection**
23 **(5) of this section.**
- 24 **(5) When a verified and eligible defendant is released on recognizance or on**
25 **unsecured bond, any conditions imposed by the court shall be the least restrictive**
26 **necessary to ensure appearance in court and mitigate danger, and shall not be**
27 **imposed as a means of punishment.**

- 1 ~~(6)~~~~(5)~~ (a) Except as provided in paragraph (b) of this subsection, regardless of the
2 amount of the bail set, the court shall permit the defendant a credit of one
3 hundred dollars (\$100) per day as a payment toward the amount of the bail set
4 for each day or portion of a day that the defendant remains in jail prior to trial.
5 Upon the service of sufficient days in jail to have sufficient credit to satisfy
6 the bail, the defendant shall be released from jail on the conditions specified
7 in this section or in this chapter.
- 8 (b) The provisions of paragraph (a) of this subsection shall not apply to:
- 9 1. Any person convicted of, pleading guilty to, or entering an Alford plea
10 to a felony offense under KRS Chapter 510, KRS 529.100 involving
11 commercial sexual activity, KRS 530.020, 530.064(1)(a), 531.310, or
12 531.320, or who is a violent offender as defined in KRS 439.3401; or
- 13 2. A defendant who is found by the court to present a flight risk or to be a
14 danger to others.
- 15 (c) For purposes of this subsection, "a day or portion of a day" means any time
16 spent in a detention facility following booking.
- 17 (d) A defendant shall not earn credit pursuant to paragraph (a) of this subsection
18 while also earning credit pursuant to KRS 534.070.
- 19 ~~(7)~~~~(6)~~ If a court determines that a defendant shall not be released pursuant to
20 subsection ~~(6)~~~~(5)~~ of this section, the court shall document the reasons for denying
21 the release in a written order.
- 22 ~~(8)~~~~(7)~~ The jailer shall be responsible for tracking the credit earned by a defendant
23 pursuant to subsection ~~(6)~~~~(5)~~ of this section.
- 24 **(9) Notwithstanding any other provision of law, any person who is denied pretrial**
25 **release or who remains in detention because he or she is unable to meet the**
26 **conditions of pretrial release shall, unless waived by the defendant, have his or**
27 **her case tried:**

1 (a) If a felony offense, within one hundred eighty (180) days of his or her first
2 appearance in the court in which he or she will be tried; or

3 (b) If a misdemeanor offense, within ninety (90) days of his or her first
4 appearance in the court in which he or she will be tried.

5 (10) If a person who remains in detention because he or she is unable to meet the
6 conditions of pretrial release is not brought to trial within the time frame
7 established in subsection (9) of this section:

8 (a) Except as provided in paragraph (b) of this section, he or she shall receive a
9 hearing not earlier than fourteen (14) days prior to the expiration of the
10 time frame and not later than seven (7) days after the expiration of the time
11 frame. Following the hearing, he or she shall be released unless the court
12 finds by clear and convincing evidence that he or she poses a particularized
13 risk of imminent serious physical harm to a person or persons other than
14 himself or herself, such that no nonfinancial conditions or combination of
15 conditions of release will reasonably address that risk.

16 (b) If a court has previously held a hearing that comports with due process and
17 has made a finding on the record by clear and convincing evidence that the
18 defendant poses a particularized risk of imminent serious physical harm to
19 a person or persons other than himself or herself such that no nonfinancial
20 conditions or combination of conditions of release will reasonably address
21 that risk, the defendant shall be entitled to a hearing without undue delay
22 upon motion of the defendant. Following the hearing, he or she shall be
23 released if the court finds by clear and convincing evidence that through a
24 substantial and material change in circumstances, he or she no longer
25 poses a particularized risk of imminent serious physical harm to a person or
26 persons other than himself or herself, such that no nonfinancial conditions
27 or combination of conditions of release will reasonably address that risk.

- 1 (11) Victims shall have the reasonable right, upon request, to timely notice of a
2 hearing pursuant to subsection (10) of this section.
- 3 (12) The time periods established in subsection (9) of this section may be extended,
4 upon motion by the prosecution or the defense and good cause found by the
5 court. The court shall establish a revised time frame and shall state on the record
6 the reasons for extending the time period.
- 7 (13) The following time periods shall be excluded in computing the time periods
8 established in subsection (9) of this section:
- 9 (a) Prior to August 1, 2026, each day of delay resulting from the processing of
10 evidence by the Kentucky State Police forensic laboratory; and
- 11 (b) The time resulting from an examination and hearing on competency and
12 the period during which the defendant is incompetent to stand trial.
- 13 (14) If at any time following release of a defendant, but before he or she is required to
14 appear for trial, the defendant is charged with a new offense that results in the
15 defendant's pretrial detention, the time calculations set forth in this section shall
16 run independently for each matter.
- 17 (15) If at any time following release of a defendant, but before he or she is required to
18 appear for trial, the defendant's bond is revoked or the conditions of his or her
19 release are changed because he or she has not complied with all of the conditions
20 imposed, the time periods established in subsection (9) of this section may be:
- 21 (a) Tolloed for the duration of the defendant's pretrial release, and resume at the
22 number of days the defendant previously spent in pretrial detention; or
- 23 (b) Calculated to begin the day the defendant is detained after the revocation of
24 bond or modification of pretrial release conditions.
- 25 The court shall state on the record the time period established under this
26 subsection.
- 27 (16) A defendant shall not remain in detention because he or she is unable to meet the

1 conditions of pretrial release for a total period that exceeds:

2 (a) If the most serious offense charged is a misdemeanor, the maximum term
 3 of imprisonment which may be imposed for the most serious offense
 4 charged; or

5 (b) If the most serious offense charged is a felony, the minimum term of
 6 imprisonment which may be imposed for the most serious offense charged.

7 ➔Section 2. KRS 431.520 is amended to read as follows:

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

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

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

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

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

27 2.~~(b)~~ With the ten percent (10%) deposit as provided in KRS 431.530;

1 provided that if the defendant is permitted to earn credit toward bail
2 pursuant to KRS 431.066, that credit shall be applied to the ten percent
3 (10%) deposit; or

4 ~~3.[(c)]~~ With the deposit of cash equal to the amount of the bond or in lieu
5 thereof acceptable security as provided in KRS 431.535;

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

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

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

26 ~~(d) 1.[(5)(a)] During all or part of a person's period of release pursuant to this~~
27 ~~section, order the person to participate in a global positioning~~

1 monitoring system program operated by a county pursuant to KRS
 2 67.372 and 67.374 under the same terms and conditions provided under
 3 KRS 431.517, **except as provided in subsection (4) of this section.**

4 ~~2.[(b)]~~ If the person is charged with a sex crime as defined in KRS
 5 17.500, consider requiring that he or she be monitored electronically,
 6 and shall consider requiring the person be subject to home incarceration;

7 **or**

8 ~~(e)[(6)]~~ Impose any other condition deemed reasonably necessary to
 9 **ensure**~~[assure]~~ appearance as required, including a condition requiring that the
 10 person return to custody after specified hours.~~[;]~~

11 **(2) If the court orders a defendant charged with any offense to be released on**
 12 **recognizance or unsecured bond and that person's record indicates a history of**
 13 **controlled substance or alcohol abuse, the court may impose certain conditions of**
 14 **release, except as provided in subsection (4) of this section, including:**

15 **(a) Ordering the person to submit to periodic testing for use of controlled**
 16 **substances or alcohol and pay a reasonable fee, not to exceed the actual cost**
 17 **of the test and analysis, as determined by the court with the fee to be**
 18 **collected by the circuit clerk, held in an agency account, and disbursed, on**
 19 **court order, solely to the agency or agencies responsible for testing and**
 20 **analysis as compensation for the cost of the testing and analysis performed**
 21 **under this subsection. If the person is declared indigent, the testing fee shall**
 22 **be waived by the court. The Administrative Office of the Courts shall**
 23 **establish pilot projects to implement this subsection; or**

24 **(b) Ordering the person to use an alcohol monitoring device, as defined in KRS**
 25 **431.068. All costs associated with the device, including administrative and**
 26 **operating costs, shall be paid by the defendant. If the court determines that**
 27 **the defendant is indigent, and a person, county, or other organization has**

1 *not agreed to pay the costs for the defendant in an attempt to reduce*
2 *incarceration expenses and increase public safety, the court shall waive the*
3 *costs or consider other conditions of release provided in this section.*

4 ~~(3)~~~~(7)~~ A court authorizing the release of a person pursuant to this section shall cause
5 the issuance of an appropriate order containing a statement of the conditions
6 imposed, if any, shall cause such person to be informed of the penalties applicable
7 to violations of the conditions of his release, and shall cause him *or her* to be
8 informed that a warrant for his *or her* arrest will be issued immediately upon any
9 such violation.~~[;]~~

10 ~~(4)~~~~(8)~~ *Any conditions imposed by the court shall be the least restrictive necessary*
11 *to ensure appearance in court and mitigate danger, and shall not be imposed as a*
12 *means of punishment.*

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

21 ~~(6)~~~~(9)~~ If at any time following release of a defendant and before he *or she* is required
22 to appear for trial, the court is advised of a material change in the defendant's
23 circumstances or that he *or she* has not complied with all conditions imposed upon
24 his release, the court having jurisdiction may:

- 25 (a) Order the arrest of the defendant;
- 26 (b) Enter an order requiring the defendant ~~and~~~~[;]~~ his *or her* surety or sureties to
27 appear and show cause why the bail bond should not be forfeited or the

1 conditions of his release be changed; or

2 (c) Both.

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

10 (7) Notwithstanding any other provision of the Kentucky Revised Statutes, any
11 person who is denied pretrial release, or who remains in detention because he or
12 she is unable to meet the conditions of pretrial release shall, unless waived by the
13 defendant, have his or her case tried:

14 (a) If a felony offense, within one hundred eighty (180) days of his or her first
15 appearance in the court in which he or she will be tried; or

16 (b) If a misdemeanor offense, within ninety (90) days of his or her first
17 appearance in the court in which he or she will be tried.

18 (8) If a person who remains in detention because he or she is unable to meet the
19 conditions of pretrial release is not brought to trial within the time frame
20 established in subsection (7) of this section:

21 (a) Except as provided in paragraph (b) of this section, he or she shall receive a
22 hearing not earlier than fourteen (14) days prior to the expiration of the
23 time frame and not later than seven (7) days after the expiration of the time
24 frame. Following the hearing, he or she shall be released unless the court
25 finds by clear and convincing evidence that he or she poses a particularized
26 risk of imminent serious physical harm to a person or persons other than
27 himself or herself, such that no nonfinancial conditions or combination of

- 1 conditions of release will reasonably address that risk.
- 2 **(b) If a court has previously held a hearing that comports with due process and**
- 3 **has, made a finding on the record by clear and convincing evidence that the**
- 4 **defendant poses a particularized risk of imminent serious physical harm to**
- 5 **a person or persons other than himself or herself such that no nonfinancial**
- 6 **conditions or combination of conditions of release will reasonably address**
- 7 **that risk, the defendant shall be entitled to a hearing without undue delay**
- 8 **upon motion of the defendant. Following the hearing, he or she shall be**
- 9 **released if the court finds by clear and convincing evidence that through a**
- 10 **substantial and material change in circumstances, he or she no longer**
- 11 **poses a particularized risk of imminent serious physical harm to a person or**
- 12 **persons other than himself or herself, such that no nonfinancial conditions**
- 13 **or combination of conditions of release will reasonably address that risk.**
- 14 **(9) Victims shall have the reasonable right, upon request, to timely notice of a**
- 15 **hearing pursuant to subsection (8) of this section.**
- 16 **(10) The time periods established in subsection (7) of this section may be extended**
- 17 **upon motion by the prosecution or the defense and good cause found by the**
- 18 **court. The court shall establish a revised time frame and shall state on the record**
- 19 **the reasons for extending the time period.**
- 20 **(11) The following time periods shall be excluded in computing the time periods**
- 21 **established in subsection (7) of this section:**
- 22 **(a) Prior to August 1, 2026, each day of delay resulting from the processing of**
- 23 **evidence by the Kentucky State Police forensic laboratory; and**
- 24 **(b) The time resulting from an examination and hearing on competency and**
- 25 **the period during which the defendant is incompetent to stand trial.**
- 26 **(12) If at any time following release of a defendant and before he or she is required to**
- 27 **appear for trial, the defendant is charged with a new offense that results in the**

1 defendant's pretrial detention, the time calculations set forth in this section shall
 2 run independently for each matter.

3 (13) If at any time following release of a defendant and before he or she is required to
 4 appear for trial, the defendant's bond is revoked or the conditions of his or her
 5 release are changed because he or she has not complied with all of the conditions
 6 imposed, the time periods established in subsection (7) of this section may be:

7 (a) Tolloed for the duration of the defendant's pretrial release, and resume at the
 8 number of days the defendant previously spent in pretrial detention; or

9 (b) Calculated to begin the day the defendant is detained after the revocation of
 10 bond or modification of pretrial release conditions.

11 The court shall state on the record the time period established under this
 12 subsection.

13 (14) A defendant shall not remain in detention because he or she is unable to meet the
 14 conditions of pretrial release for a total period that exceeds:

15 (a) If the most serious offense charged is a misdemeanor, the maximum term
 16 of imprisonment which may be imposed for the most serious offense
 17 charged; or

18 (b) If the most serious offense charged is a felony, the minimum term of
 19 imprisonment which may be imposed for the most serious offense charged.

20 ➔Section 3. KRS 431.530 is amended to read as follows:

21 (1) Any person who has been permitted to execute a bail bond in accordance with KRS
 22 431.520~~[(3)(b)]~~ shall deposit with the clerk of the court before which the action is
 23 pending a sum of money equal to ten percent (10%) of the bail, but in no event shall
 24 such deposit be less than ten dollars (\$10) unless the defendant earned full credit
 25 toward the applicable amount of bail pursuant to KRS 431.066, in which case the
 26 defendant shall not be required to make a deposit with the clerk of the court.

27 (2) Upon depositing said sum the defendant shall be released from custody subject to

1 all conditions of release imposed by the court.

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

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

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

27 ➔Section 4. KRS 431.535 is amended to read as follows:

- 1 (1) Any person who has been permitted to execute a bail bond in accordance with KRS
2 431.520~~[(3)(e)]~~ may secure such bond:
- 3 (a) By a deposit, with the clerk of the court, of cash, or stocks and bonds in which
4 trustees are authorized to invest funds under the laws of this Commonwealth
5 having an unencumbered market value of not less than the amount of the bail
6 bond; or
- 7 (b) By real estate situated in this Commonwealth with unencumbered equity, not
8 exempt and owned by the defendant or a surety or sureties having a fair
9 market value at least double the amount of the bail bond.
- 10 (2) If the bail bond is secured by stocks and bonds the defendant or the surety or
11 sureties shall file with the bond a sworn schedule which shall be approved by the
12 court and shall contain:
- 13 (a) A list of the stocks and bonds deposited describing each in sufficient detail
14 that they may be identified;
- 15 (b) The present market value of each stock and bond;
- 16 (c) The total market value of the stocks and bonds listed;
- 17 (d) A statement that the affiant or affiants is the sole owner or owners thereof and
18 that the stocks and bonds listed are not exempt from execution;
- 19 (e) A statement that such stocks and bonds have not previously been deposited or
20 accepted as bail in this Commonwealth during the 12 months preceding the
21 date of the bail bond; provided, however, this statement shall not be required
22 of the defendant using his own property as security; or if the surety or sureties
23 using their property as security are related to the defendant by consanguinity
24 no further removed than first cousin; or if the surety or sureties is either a
25 father-in-law, mother-in-law, son-in-law, or daughter-in-law of the defendant;
26 and
- 27 (f) A statement that such stocks and bonds are security for the appearance of the

- 1 defendant in accordance with the conditions of release imposed by the court.
- 2 (3) If the bail bond is secured by real estate the defendant or surety or sureties shall file
3 with the bond a sworn schedule which shall contain:
- 4 (a) A legal description of the real estate;
- 5 (b) A description of any and all encumbrances on the real estate including the
6 amount of each and the holder thereof;
- 7 (c) The market value of the unencumbered equity owned by the affiant or affiants;
- 8 (d) A statement that the affiant is the sole owner, or in the case of jointly owned
9 real estate, that affiants are the sole owners of such unencumbered equity and
10 that it is not exempt from execution;
- 11 (e) A statement that the real estate has not previously been used or accepted as
12 bail in this Commonwealth during the 12 months preceding the date of the
13 bail bond; provided, however, this statement shall not be required of the
14 defendant using his own property as security; or if the surety or sureties using
15 their property as security are related to the defendant by consanguinity no
16 further removed than first cousin; or if the surety or sureties is either a father-
17 in-law, mother-in-law, son-in-law or daughter-in-law of the defendant; and
- 18 (f) A statement that the real estate is security for the appearance of the defendant
19 in accordance with the conditions of release imposed by the court.
- 20 (4) The sworn schedule shall constitute a material part of the bail bond. An affiant shall
21 be subject to penalty of perjury if in the sworn schedule he makes a false statement
22 which he does not believe to be true.
- 23 (5) A certified copy of the bail bond and schedule of real estate accompanied by the
24 necessary recording fee which shall be paid by the affiant or affiants shall be filed
25 immediately by the clerk of the court requiring the bail bond in the office of the
26 county clerk of the county in which the real estate is situated. The county clerk
27 shall record such copies of said bail bonds and schedule and the Commonwealth

1 shall have a lien upon such real estate from the date and time of such recordation.

2 The instruments described herein shall be recorded in the miscellaneous
3 encumbrances book provided by the county clerk.

4 (6) If the conditions of release imposed by the court have been performed and the
5 defendant has been discharged from all obligations in the action, the clerk of the
6 court shall return to him or his sureties the deposit of any cash, stocks or bonds. If
7 the bail bond has been secured by real estate, the clerk of the court requiring the bail
8 bond shall forthwith notify in writing the county clerk of the county where the real
9 estate is situated and the lien on the real estate shall be discharged and the release
10 thereof recorded in the margin.