

1 AN ACT relating to community parenting alternative sentencing plans.

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

3 ➔Section 1. KRS 533.010 is amended to read as follows:

4 (1) *As used in this section, "parenting-based alternative sentence" means probation*
5 *with an alternative sentencing plan based on community rehabilitation, with a*
6 *focus on parent-child unity and support, available to a defendant who:*

7 *(a) Committed a nonviolent offense;*

8 *(b) Is the primary caregiver of a dependent child; and*

9 *(c) Has not committed an offense against the person for whom the defendant is*
10 *the primary caregiver.*

11 (2) Any person who has been convicted of a crime and who has not been sentenced to
12 death may be sentenced to probation, probation with an alternative sentencing plan,
13 or conditional discharge as provided in this chapter.

14 (3)~~(2)~~ Before imposition of a sentence of imprisonment, the court shall consider
15 probation, probation with an alternative sentencing plan, or conditional discharge.
16 Unless the defendant is a violent felon as defined in KRS 439.3401 or a statute
17 prohibits probation, shock probation, or conditional discharge, after due
18 consideration of the defendant's risk and needs assessment, nature and
19 circumstances of the crime, and the history, character, and condition of the
20 defendant, probation or conditional discharge shall be granted, unless the court is of
21 the opinion that imprisonment is necessary for protection of the public because:

22 (a) There is substantial risk that during a period of probation or conditional
23 discharge the defendant will commit another crime;

24 (b) The defendant is in need of correctional treatment that can be provided most
25 effectively by his commitment to a correctional institution; or

26 (c) A disposition under this chapter will unduly depreciate the seriousness of the
27 defendant's crime.

1 ~~(4)~~~~(3)~~ In the event the court determines that probation is not appropriate after due
2 consideration of the defendant's risk and needs assessment, nature and
3 circumstances of the crime, and the history, character, and condition of the
4 defendant, probation with an alternative sentencing plan shall be granted unless the
5 court is of the opinion that imprisonment is necessary for the protection of the
6 public because:

- 7 (a) There is a likelihood that during a period of probation with an alternative
8 sentencing plan or conditional discharge the defendant will commit a Class D
9 or Class C felony or a substantial risk that the defendant will commit a Class
10 B or Class A felony;
- 11 (b) The defendant is in need of correctional treatment that can be provided most
12 effectively by commitment to a correctional institution; or
- 13 (c) A disposition under this chapter will unduly depreciate the seriousness of the
14 defendant's crime.

15 ~~(5)~~~~(4)~~ The court shall not determine that there is a likelihood that the defendant will
16 commit a Class C or Class D felony based upon the defendant's risk and needs
17 assessment and the fact that:

- 18 (a) The defendant has never been convicted of, pled guilty to, or entered an
19 Alford plea to a felony offense;
- 20 (b) If convicted of, having pled guilty to, or entered an Alford plea to a felony
21 offense, the defendant successfully completed probation more than ten (10)
22 years immediately prior to the date of the commission of the felony for which
23 the defendant is now being sentenced and has had no intervening convictions,
24 pleas of guilty, or Alford pleas to any criminal offense during that period; or
- 25 (c) The defendant has been released from incarceration for the commission of a
26 felony offense more than ten (10) years immediately prior to the date of the
27 commission of the felony for which the defendant is now being sentenced and

1 has had no intervening convictions, pleas of guilty, or Alford pleas to any
2 criminal offense during that period.

3 ~~(6)~~~~(5)~~ In making a determination under subsection ~~(5)~~~~(4)~~ of this section, the court
4 may determine that the greater weight of the evidence indicates that there is a
5 likelihood that the defendant will commit a Class C or Class D felony.

6 ~~(7)~~~~(6)~~ Upon initial sentencing of a defendant or upon modification or revocation of
7 probation, when the court deems it in the best interest of the public and the
8 defendant, the court may order probation with the defendant to serve one (1) of the
9 following alternative sentences:

- 10 (a) To a halfway house for no more than twelve (12) months;
- 11 (b) To home incarceration with or without work release for no more than twelve
12 (12) months;
- 13 (c) To jail for a period not to exceed twelve (12) months with or without work
14 release, community service and other programs as required by the court;
- 15 (d) To a residential treatment program for the abuse of alcohol or controlled
16 substances;
- 17 (e) To a reentry center for no more than twelve (12) months; or
- 18 (f) To any other specified counseling program, rehabilitation or treatment
19 program, or facility.

20 ~~(8)~~~~(7)~~ If during the term of the alternative sentence the defendant fails to adhere to
21 and complete the conditions of the alternative sentence, the court may modify the
22 terms of the alternative sentence or may modify or revoke probation and alternative
23 sentence and commit the defendant to an institution.

24 ~~(9)~~~~(8)~~ In addition to those conditions that the court may impose, the conditions of
25 alternative sentence shall include the following and, if the court determines that the
26 defendant cannot comply with them, then they shall not be made available:

- 27 (a) A defendant sentenced to a halfway house shall:

- 1 1. Be working or pursuing his or her education or be enrolled in a full-time
- 2 treatment program;
- 3 2. Pay restitution during the term of probation; and
- 4 3. Have no contact with the victim of the defendant's crime;
- 5 (b) A defendant sentenced to home incarceration shall:
- 6 1. Be employed by another person or self-employed at the time of
- 7 sentencing to home incarceration and continue the employment
- 8 throughout the period of home incarceration, unless the court determines
- 9 that there is a compelling reason to allow home incarceration while the
- 10 defendant is unemployed;
- 11 2. Pay restitution during the term of home incarceration;
- 12 3. Enter a treatment program, if appropriate;
- 13 4. Pay all or some portion of the cost of home incarceration as determined
- 14 by the court;
- 15 5. Comply with other conditions as specified; and
- 16 6. Have no contact with the victim of the defendant's crime;
- 17 (c) A defendant sentenced to jail with community service shall:
- 18 1. Pay restitution during all or some part of the defendant's term of
- 19 probation; and
- 20 2. Have no contact with the victim of the defendant's crime;
- 21 (d) A defendant sentenced to a residential treatment program for drug and alcohol
- 22 abuse shall:
- 23 1. Undergo mandatory drug screening during term of probation;
- 24 2. Be subject to active, supervised probation for a term of five (5) years;
- 25 3. Undergo aftercare as required by the treatment program;
- 26 4. Pay restitution during the term of probation; and
- 27 5. Have no contact with the victim of the defendant's crime;~~[-or]~~

- 1 (e) A defendant sentenced to a reentry center shall:
- 2 1. Be employed in the community or working in a vocational program at
- 3 the reentry center;
- 4 2. Be enrolled in a treatment program;
- 5 3. Pay restitution, fees, and fines during the term of probation; and
- 6 4. Comply with other conditions as specified; or

7 (f) A defendant sentenced to a parenting-based alternative sentence shall, as

8 directed by the court:

- 9 1. Undergo mental health screening, education, or treatment;
- 10 2. Complete drug and alcohol treatment;
- 11 3. Complete domestic violence education and prevention planning, anger
- 12 management training, financial literacy training, or parenting classes
- 13 or training;
- 14 4. Receive counseling for domestic violence and abuse and dating
- 15 violence and abuse, or family and individual counseling;
- 16 5. Utilize vocational and educational services;
- 17 6. Be employed in the community or working in a vocational program;
- 18 7. Maintain stable housing; or
- 19 8. Comply with recommendations of family case management services
- 20 approved by the Cabinet for Health and Family Services and other
- 21 conditions as specified.

22 ~~(10)~~⁽⁹⁾ When the court deems it in the best interest of the defendant and the public,

23 the court may order the person to work at community service related projects under

24 the terms and conditions specified in KRS 533.070. Work at community service

25 related projects shall be considered as a form of conditional discharge.

26 ~~(11)~~⁽¹⁰⁾ Probation with alternative sentence shall not be available as set out in KRS

27 532.045 and 533.060, except as provided in KRS 533.030(6).

1 ~~(12)~~~~(11)~~ The court may utilize a community corrections program authorized or funded
2 under KRS Chapter 196 to provide services to any person released under this
3 section.

4 ~~(13)~~~~(12)~~ When the court deems it in the best interest of the defendant and the public,
5 the court may order the defendant to placement for probation monitoring by a
6 private agency. The private agency shall report to the court on the defendant's
7 compliance with his or her terms of probation or conditional discharge. The
8 defendant shall be responsible for any reasonable charges which the private agency
9 charges.

10 ~~(14)~~~~(13)~~ The jailer in each county incarcerating Class C or D felons may deny work
11 release privileges to any defendant for violating standards of discipline or other jail
12 regulations. The jailer shall report the action taken and the details of the violation
13 on which the action was based to the court of jurisdiction within five (5) days of the
14 violation.

15 ~~(15)~~~~(14)~~ The Department of Corrections shall, by administrative regulation, develop
16 written criteria for work release privileges granted under this section.

17 ~~(16)~~~~(15)~~ Reimbursement of incarceration costs shall be paid directly to the jailer in the
18 amount specified by written order of the court. Incarceration costs owed to the
19 Department of Corrections shall be paid through the circuit clerk.

20 ~~(17)~~~~(16)~~ The court shall enter into the record written findings of fact and conclusions
21 of law when considering implementation of any sentence under this section.