

1 AN ACT relating to pretrial release.

2 WHEREAS, the cash bail system incarcerates people charged with crimes based on
3 their inability to pay for their release; and

4 WHEREAS, the number of persons incarcerated in the United States more than
5 quadrupled in the last fifty years; and

6 WHEREAS, Kentucky's pretrial detention population more than doubled from 1978
7 to 2018; and

8 WHEREAS, in studies reported by the Brennan Center at the New York University
9 School of Law, people of color have been found to be more likely to be detained pretrial,
10 more likely to have financial conditions imposed, and have cash bonds set up to 35%
11 higher than white defendants; and

12 WHEREAS, pretrial detention increases the likelihood that a defendant will plead
13 guilty to an offense; and

14 WHEREAS, persons who are detained pretrial are more than four times more likely
15 to be sentenced to prison compared to those released before trial; and

16 WHEREAS, in a 2015 study reported by the United States Civil Rights
17 Commission, 38% of felony defendants were detained for the entirety of the pretrial
18 period, and 90% of those detainees remained in jail solely because they were unable to
19 afford the bail that had been set; and

20 WHEREAS, almost 60 years ago, Attorney General Robert F. Kennedy said that
21 "Our present attitudes toward bail are not only cruel, but really completely illogical. What
22 has been demonstrated here is that usually only one factor determines whether a
23 defendant stays in jail before he comes to trial. That factor is not guilt or innocence. It is
24 not the nature of the crime. It is not the character of the defendant. That factor is, simply
25 money. How much money does the defendant have?"; and

26 WHEREAS, the use of cash bail discriminates against the poor, and has a
27 disproportionate impact on people of color.

1 NOW, THEREFORE,

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) "Enhanced scrutiny offense" means a violation of KRS 189A.010(5)(c) and
 6 (d), 209.990(2), (3), and (4), 218A.1432, 507A.040, 507A.050, 508.020,
 7 508.025, 508.040(2)(a) and (b), 508.050, 508.060, 508.075, 508.078,
 8 508.100, 508.110, 508.120, 508.140, 508.150, 509.020, 509.040, 510.120,
 9 510.130, 511.020, 513.030, 513.040, 515.020, 515.030, 518.090, 525.020,
 10 527.205, 529.100, or 529.110;

11 (b) "Money bail" means any financial condition of release including cash,
 12 property, a percentage of cash bail, secured, unsecured, or otherwise;

13 (c) "Standard conditions" means the following:

- 14 1. The defendant shall not commit a local, state, or federal offense;
 15 2. The defendant shall appear for all required court appearances; and
 16 3. The defendant shall avoid all contact with any alleged victim and any
 17 potential witness who may testify concerning the charge, unless or
 18 until the court removes this condition;

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

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

26 (2) No verified and eligible defendant shall be detained on money bail.

27 (3) (a) Pretrial services shall use a validated pretrial risk assessment tool to

1 determine whether a verified and eligible defendant presents a low,
 2 moderate, or high risk of failing to appear for required court appearances
 3 or committing criminal conduct while on pretrial release pending
 4 adjudication.

5 (b) The validated pretrial risk assessment tool shall consider a defendant's risk
 6 of failing~~[When a court considers pretrial release and bail for an arrested~~
 7 ~~defendant, the court shall consider whether the defendant constitutes a flight~~
 8 ~~risk, is unlikely] to appear for required court appearances~~[trial], or being~~~~[or~~
 9 ~~is likely to be] a danger to the public if released, by considering factors that~~
 10 may include but are not limited to prior failure to appear for scheduled
 11 court appearances, prior criminal history, types of offenses, and any other
 12 factors determined appropriate or necessary by pretrial services~~[In making~~
 13 ~~this determination, the court shall consider the pretrial risk assessment for a~~
 14 ~~verified and eligible defendant along with the factors set forth in KRS~~
 15 ~~431.525].~~~~

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

20 ~~(4)~~~~(3)~~ (a) If a verified and eligible defendant:
 21 1. Poses a low or moderate risk as determined under subsection (3) of
 22 this section;
 23 2. Has been charged with a violation, misdemeanor, or Class D felony;
 24 3. Has not been charged with a violent or sexual offense;
 25 4. Has not been charged with an enhanced scrutiny offense; and
 26 5. Has not been charged with a violation of KRS 17.510, 17.545, 17.546,
 27 17.549, 119.255, 189A.010(5)(b) to (d), 209.990, a second or

1 subsequent offense of 235.240, 403.763, 456.120, 456.180, 507.050,
 2 508.030, 508.070, 508.080, 508.155, 509.030, 509.080, 511.085,
 3 514.080, 520.090, 524.040, 525.120, 525.125, 525.130, 525.135,
 4 525.205, 527.020, 529.020, 529.040(2), 529.070, 529.080, 529.090,
 5 530.010, 530.060, 531.020, 531.030, 531.040, 531.050, 531.060,
 6 531.090, 531.100, 531.335, 531.340, 531.350, 531.360, or 531.370;
 7 the defendant shall be released on his or her own recognizance by a pretrial
 8 officer, unless the defendant has been convicted of a violent or sexual
 9 offense within five (5) years prior to his or her current offense, in which
 10 case the pretrial officer, upon approval of his or her pretrial supervisor,
 11 may refer the defendant to the court.

12 **(b) If a pretrial officer refers a defendant to the court pursuant to paragraph**
 13 **(a) of this subsection, the court may order the defendant released on his or**
 14 **her own recognizance subject to standard conditions, may impose**
 15 **additional nonfinancial conditions as outlined in Section 20 of this Act,**
 16 **KRS 431.518, and Section 22 of this Act, or may, either on its own or by**
 17 **motion of the prosecutor, detain the defendant until a detention hearing is**
 18 **held pursuant to Section 2 of this Act.**

19 **(5) When the court is making a bail determination for^[Hf] a verified and eligible**
 20 **defendant *who* poses *a* low risk *as determined under subsection (3) of this section,***
 21 **if the defendant:**

22 **(a) Has not been charged with a violent or sexual offense, and:**
 23 **1. Has been charged with a Class A, B, or C felony and has not been**
 24 **charged with an enhanced scrutiny offense^{[of flight, is likely to appear}**
 25 **for trial, and is not likely to be a danger to others], the court shall order**
 26 **the defendant released on *his or her*^{[unsecured bond or on the}**
 27 **defendant's] own recognizance subject to *standard*^[such—other]**

1 conditions~~[as the court may order.];~~ or

2 2. Has been charged with an enhanced scrutiny offense or an offense
3 listed in subsection (4)(a) 5. of this section, the court shall order the
4 defendant released on his or her own recognizance subject to standard
5 conditions and may impose additional nonfinancial conditions as
6 outlined in Section 20 of this Act, KRS 431.518, and Section 22 of this
7 Act;

8 (b) Has been charged with a violent or sexual offense, the court may order the
9 defendant released on his or her own recognizance subject to standard
10 conditions, may impose additional nonfinancial conditions as outlined in
11 Section 20 of this Act, KRS 431.518, and Section 22 of this Act, or may,
12 either on its own or by motion of the prosecutor, detain the defendant until
13 a detention hearing is held pursuant to Section 2 of this Act.

14 (6)[(4)] When the court is making a bail determination for~~[H]~~ a verified and eligible
15 defendant who poses a moderate risk as determined under subsection (3) of this
16 section:

17 (a) If the defendant has not been charged with a violent or sexual offense; and
18 1. Has been charged with a Class A, B, or C felony and has not been
19 charged with an enhanced scrutiny offense~~[of flight, has a moderate~~
20 ~~risk of not appearing for trial, or poses a moderate risk of danger to~~
21 ~~others],~~ the court shall order~~[release]~~ the defendant released on his or
22 her own recognizance subject to standard~~[under the same]~~ conditions~~[~~
23 ~~as in subsection (3) of this section]~~ and may impose additional
24 nonfinancial conditions as outlined in Section 20 of this Act, KRS
25 431.518, and Section 22 of this Act~~[but shall consider ordering the~~
26 ~~defendant to participate in global positioning system monitoring,~~
27 ~~controlled substance testing, increased supervision, or such other~~

1 conditions as the court may order].

2 2. Has been charged with an enhanced scrutiny offense or an offense
3 listed in subsection (4)(a) 5. of this section, the court may order the
4 defendant released on his or her own recognizance subject to standard
5 conditions, may impose additional nonfinancial conditions as outlined
6 in Section 20 of this Act, KRS 431.518, and Section 22 of this Act, or
7 may, either on its own or by motion of the prosecutor, detain the
8 defendant until a detention hearing is held pursuant to Section 2 of
9 this Act.

10 (b) If the defendant has been charged with a violent or sexual offense, the court
11 shall detain the defendant until a detention hearing is held pursuant to
12 Section 2 of this Act.

13 ~~(7)(5)~~ When the court is making a bail determination for a verified and eligible
14 defendant who poses a high risk as determined under subsection (3) of this
15 section;

16 (a) If the defendant has been charged with a violation, misdemeanor, or Class
17 D felony and has not been charged with a violent or sexual offense or with
18 an enhanced scrutiny offense, the court shall order the defendant released
19 on his or her own recognizance subject to standard conditions and may
20 impose additional nonfinancial conditions as outlined in Section 20 of this
21 Act, KRS 431.518, and Section 22 of this Act;

22 (b) If the defendant has been charged with a Class A, B, or C felony and
23 1. Has not been charged with a violent or sexual offense or with an
24 enhanced scrutiny offense, the court may order the defendant released
25 on his or her own recognizance subject to standard conditions, may
26 impose additional nonfinancial conditions as outlined in Section 20 of
27 this Act, KRS 431.518, and Section 22 of this Act, or may, either on its

1 own or by motion of the prosecutor, detain the defendant until a
 2 detention hearing is held pursuant to Section 2 of this Act; or
 3 2. Has been charged with a violent or sexual offense or with an
 4 enhanced scrutiny offense, the court shall detain the defendant until a
 5 detention hearing is held pursuant to Section 2 of this Act.

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

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

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

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

15 (9) The Supreme Court may make any procedural rules necessary to implement the
 16 provisions of this section~~[(a) — Except as provided in paragraph (b) of this~~
 17 ~~subsection, regardless of the amount of the bail set, the court shall permit the~~
 18 ~~defendant a credit of one hundred dollars (\$100) per day as a payment toward the~~
 19 ~~amount of the bail set for each day or portion of a day that the defendant remains in~~
 20 ~~jail prior to trial. Upon the service of sufficient days in jail to have sufficient credit~~
 21 ~~to satisfy the bail, the defendant shall be released from jail on the conditions~~
 22 ~~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 shall be held within five (5) days of a verified and eligible*
15 *defendant being detained pursuant to Section 1 of this Act. The detention hearing*
16 *may be held at arraignment.*

17 *(2) (a) At the detention hearing, the court shall determine whether any*
18 *nonfinancial condition, or combination of conditions, outlined in Section*
19 *20 of this Act, KRS 431.518, and Section 22 of this Act shall reasonably*
20 *ensure the appearance of the defendant for required court appearances and*
21 *the safety of the public.*

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

25 *1. Whether the offense involves violence, obstruction of public*
26 *administration under KRS Chapter 519, or interference with judicial*
27 *administration under KRS Chapter 524; and*

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- 2. The history and characteristics of the defendant, including:
 - a. The defendant’s character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings;
 - b. Whether, at the time of the current offense or arrest, the defendant was on probation, on parole, on supervised release, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under local, state, or federal law; and
 - c. The nature and seriousness of the danger to any person or the community that would be posed by the defendant’s release.

(c) There shall be a rebuttable presumption that no condition or combination of conditions of release will reasonably ensure the safety of the public if the court finds by probable cause that the defendant committed:

- 1. A violent or sexual offense while armed with a deadly weapon or dangerous instrument;
- 2. A violent or sexual offense and has previously been convicted of a violent or sexual offense which was committed while on release pending trial for a local, state, or federal offense;
- 3. A violent or sexual offense while on release pending trial for a local, state, or federal offense;
- 4. Two (2) or more violent or sexual offenses in separate incidents that are joined in the case before the court; or
- 5. A violent or sexual offense in which the victim sustained a physical injury.

(d) After considering the information outlined in paragraph (b) of this

1 subsection and the existence, if any, of a rebuttable presumption under
2 paragraph (c) of this subsection, if the court finds by clear and convincing
3 evidence that no condition, or combination of conditions, outlined in
4 Section 20 of this Act, KRS 431.518, and Section 22 of this Act shall
5 reasonably ensure the appearance of the defendant for required court
6 appearances and the safety of the public, the court shall order the defendant
7 detained before trial. If the court orders the defendant detained before trial,
8 the court shall make written findings of fact and a written statement for the
9 reasons for the detention.

10 (3) At the detention hearing, the defendant shall:

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

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

18 (4) After the court has determined pursuant to this section to either detain or release
19 a verified and eligible defendant prior to trial, the determination may be reviewed
20 at any time before trial by the court either upon its own motion or upon motion of
21 either party if:

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

27 (b) Based on the Commonwealth's motion, the court finds probable cause that

1 *the defendant has failed to comply with the conditions of release. The court*
2 *may either summons the defendant to appear at a hearing or issue a*
3 *warrant for the defendant's arrest. If a defendant is arrested pursuant to*
4 *this paragraph, a hearing shall be held within five (5) days of arrest.*

5 *(5) Nothing in this section shall be construed as modifying or limiting the verified*
6 *and eligible defendant's presumption of innocence.*

7 ➔Section 3. KRS 6.949 is amended to read as follows:

- 8 (1) Any bill, amendment, or committee substitute that creates a new crime, increases
9 the penalty for an existing crime, decreases the penalty for an existing crime,
10 changes the elements of the offense for an existing crime, repeals an existing crime,
11 or proposes to increase, decrease, or otherwise impact incarceration shall be
12 identified by the staff of the Legislative Research Commission as having a
13 corrections impact on a "Corrections Impact Statement" form specified by the
14 Legislative Research Commission.
- 15 (2) If a bill, amendment, or committee substitute is identified as having a corrections
16 impact under subsection (1) of this section, the staff of the Legislative Research
17 Commission shall notify the sponsor of the bill, amendment, or committee
18 substitute that a corrections impact is required.
- 19 (3) If a bill, amendment, or committee substitute is identified as having a corrections
20 impact, a "Corrections Impact Statement" shall be prepared by the staff of the
21 Department of Corrections with the assistance of the Department of Kentucky State
22 Police, Administrative Office of the Courts, Parole Board, and other persons,
23 agencies, or organizations deemed necessary by the Department of Corrections staff
24 assigned to prepare the corrections impact statement. The Department of Kentucky
25 State Police, Administrative Office of the Courts, Parole Board, and other persons,
26 agencies, and organizations that have been requested to provide information for the
27 corrections impact statement shall do so within the period of time specified by the

1 Department of Corrections staff person requesting the information, which in no case
2 shall exceed two (2) business days unless an extension is granted by the requesting
3 staff person.

4 (4) The corrections impact statement shall contain the estimated costs, estimated
5 savings, and necessary appropriations based upon:

6 (a) Incarceration in jail prior to trial and during trial based on the available
7 information about persons granted ~~[bail or other form of]~~ pretrial release and
8 the length of time spent in jail prior to release;

9 (b) Supervision of a person who has been granted ~~[bail or]~~ pretrial release based
10 on the average time spent between the time of release until the time of trial for
11 the offense;

12 (c) Incarceration in jail for a misdemeanor following conviction based on the
13 maximum time of incarceration authorized for the offense;

14 (d) Incarceration in a state correctional facility for a capital offense, or felony
15 offense based on the maximum and minimum length of incarceration
16 authorized for the offense, except for offenses in which incarceration in a
17 county jail for a Class D felony is required;

18 (e) Incarceration in a county jail for a Class D felony for which incarceration in a
19 county jail is authorized based on the maximum and minimum sentence of
20 incarceration authorized for a Class D felony;

21 (f) Probation or conditional discharge supervision based on the maximum time of
22 probation or conditional discharge authorized for the offense;

23 (g) Parole supervision based on the minimum expiration of sentence; and

24 (h) Treatment, education, and other programs which are to be paid by the state
25 based on the average costs actually paid by the Department of Corrections
26 during the previous fiscal year.

27 (5) Insofar as possible, costs and savings for a change to an existing crime shall be

1 calculated using:

2 (a) Arrest data for the crime from the Department of Kentucky State Police;

3 (b) Pretrial incarceration data from the Administrative Office of the Courts;

4 (c) Preconviction jail data from the Administrative Office of the Courts;

5 (d) Conviction data from the Administrative Office of the Courts;

6 (e) Postconviction jail and imprisonment data from the Department of
7 Corrections;

8 (f) Probation and parole data from the Department of Corrections; and

9 (g) Data from applicable agencies or organizations providing treatment,
10 education, or other mandated programs.

11 (6) Insofar as possible, costs or savings for a new crime shall be calculated in the same
12 manner as specified in subsection (5) of this section using data for similar crimes
13 unless that is determined by the Department of Corrections staff person to be
14 impractical or impossible in which case the estimate for a new crime may be
15 prepared using:

16 (a) The maximum and minimum length of incarceration for the offense;

17 (b) An estimate of cost based on ten (10) persons being charged with the offense,
18 and based on one hundred (100) persons being charged with the offense;

19 (c) An estimate of cost based on ten (10) persons and one hundred (100) persons
20 being convicted of the offense and sent to jail if the offense is a misdemeanor
21 using the criteria specified in subsection (7) of this section; and

22 (d) An estimate of cost based on ten (10) persons and one hundred (100) persons
23 being convicted of a felony offense requiring imprisonment in a state-operated
24 correctional facility unless the offense is a Class D felony for which
25 imprisonment in a county jail is required in which case the cost shall be based
26 on the amount paid by the Department of Corrections for a person
27 incarcerated in a county jail for a Class D felony.

1 (7) Costs or savings shall be based on the average costs actually paid by the Department
 2 of Corrections during the previous fiscal year for incarceration of a person in a state
 3 correctional facility, the average cost for supervision of a person placed on
 4 probation without electronic monitoring, the average cost of a person placed on
 5 probation with electronic monitoring, the average cost of parole supervision without
 6 electronic monitoring, and the average cost of parole supervision with electronic
 7 monitoring.

8 (8) If an amendment to a bill is combined into a committee substitute or a GA version
 9 of the bill is created incorporating a floor amendment, a new corrections impact
 10 statement shall be prepared combining the information in the original bill as
 11 modified by the amendment.

12 ➔Section 4. KRS 24A.110 is amended to read as follows:

13 (1) The District Court shall have exclusive jurisdiction to make final disposition of all
 14 criminal matters, including violations of county, urban-county, or city ordinances or
 15 codes, except:

16 (a) Offenses denominated by statute as felonies or capital offenses; and

17 (b) Offenses punishable by death or imprisonment in the penitentiary.

18 (2) The District Court has exclusive jurisdiction to make a final disposition of any
 19 charge or a public offense denominated as a misdemeanor or violation, except
 20 where the charge is joined with an indictment for a felony, and all violations of
 21 county, urban-county, or city ordinances and, prior to trial, to commit the defendant
 22 to jail or grant~~[hold]~~ him or her~~[to bail or other form of]~~ pretrial release *in*
 23 *accordance with Sections 1 and 2 of this Act.*

24 (3) The District Court has, concurrent with Circuit Court, jurisdiction to examine any
 25 charge of a public offense denominated as a felony or capital offense or which may
 26 be punished by death or imprisonment in the penitentiary and to commit the
 27 defendant to jail or grant~~[hold]~~ him or her~~[to bail or other form of]~~ pretrial release

1 *in accordance with Sections 1 and 2 of this Act.*

2 (4) The District Court may, upon motion and for good cause shown, reduce a charge of
3 a felony to a misdemeanor in accordance with the Rules of Criminal Procedure.

4 ➔Section 5. KRS 27A.360 is amended to read as follows:

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

7 (1) Whether or not the defendant was released on ~~bail or~~ pretrial release; *and*

8 (2) If released on ~~bail~~:

9 ~~(a) The amount of the bail;~~

10 ~~(b) Whether the bail was cash, property, a percentage of cash bail, secured, unsecured,
11 or otherwise;~~

12 ~~(c) Whether the conditions of bail were satisfied; and~~

13 ~~(d) Whether or not the bail was returned, forfeited, credited to the public advocate or
14 otherwise;~~

15 ~~(3) If released on any other form of~~ pretrial release:

16 (a) Whether or not released on own recognizance;

17 (b) Whether release was upon conditions, if so what conditions; and

18 (c) Whether the conditions of release were satisfied.

19 ➔Section 6. KRS 27A.370 is amended to read as follows:

20 The court disposition level of the system shall consist of at least the following
21 information as relates to counsel:

22 (1) Did the defendant have counsel;

23 (2) Did the defendant retain private counsel;

24 (3) Was counsel provided by the public advocate;

25 (4) If counsel was provided by the public advocate:

26 (a) Was reimbursement sought;

27 (b) What was the amount of reimbursement sought; *and*

1 (c) What was the amount of reimbursement paid~~[- and~~

2 ~~(d) What amount was recovered from bail money];~~

3 (5) Did the defendant have more than one (1) counsel; if so, the number of counsel.

4 ➔Section 7. KRS 27A.400 is amended to read as follows:

5 The sentencing level of the system shall consist of at least the following information as
6 relates to the sentence imposed:

7 (1) Sentencing date;

8 (2) Sentence for each offense;

9 (3) If sentenced to imprisonment:

10 (a) Place of imprisonment;

11 (b) Sentence minimum for each offense;

12 (c) Sentence maximum for each offense;

13 (d) Consecutive multiple incarceration;

14 (e) Concurrent multiple incarceration;

15 (f) Was the defendant sentenced without privilege of parole for twenty-five (25)
16 years; and

17 (g) If answer to paragraph (f) of this subsection is yes, which aggravating
18 circumstance or circumstances were found;

19 (4) If sentenced to a fine:

20 (a) The amount of the fine;

21 (b) Is the fine to be paid in installments;

22 (c) If answer to paragraph (b) of this subsection is yes, amount of each
23 installment;

24 (d) Was the fine paid in full upon conviction; **and**

25 (e) If not, what amount was paid~~[- and~~

26 ~~(f) How much of money held for bail was used in payment of the fine];~~

27 (5) If any other sentence was imposed:

- 1 (a) The nature of the sentence;
- 2 (b) Was conditional discharge imposed and what were the conditions of the
3 discharge;
- 4 (c) Was restitution imposed;
- 5 (d) If restitution was imposed, what were the conditions of restitution;
- 6 (e) If monetary restitution was imposed, what was the amount;
- 7 (f) Was the amount paid in full upon conviction;
- 8 (g) If restitution was to be paid in installments, what is the amount of each
9 installment and to whom is it to be paid; and
- 10 (h) List any other type of sentence imposed;
- 11 (6) Were court costs imposed:
- 12 (a) The amount of the costs;
- 13 (b) Are the costs to be paid in installments;
- 14 (c) If answer to paragraph (b) of this subsection is yes, the amount of each
15 installment;
- 16 (d) Were the costs paid in full upon conviction; and
- 17 (e) If not, how much was paid;
- 18 (7) Was a crime victim compensation fund cost imposed:
- 19 (a) The amount imposed;
- 20 (b) Is this amount to be paid in installments;
- 21 (c) If answer to paragraph (b) of this subsection is yes, the amount of each
22 installment;
- 23 (d) Was the crime victim compensation fund cost paid in full upon conviction;
24 and
- 25 (e) If not, how much was paid;
- 26 (8) List all other fees, costs, and similar monetary penalties which were imposed but
27 not listed above:

- 1 (a) List separately the amount of each;
- 2 (b) List separately each to be paid in installments;
- 3 (c) List separately the amount of each installment;
- 4 (d) Were these costs paid in full upon conviction; list each; and
- 5 (e) If not, list the amount paid on each.

6 ➔Section 8. KRS 31.120 is amended to read as follows:

- 7 (1) (a) The determination of whether a person covered by KRS 31.110 is a needy
8 person shall be deferred no later than his or her first appearance in court or in
9 a suit for payment or reimbursement under KRS 31.211, whichever occurs
10 earlier.
- 11 (b) The court of competent jurisdiction in which the case is pending shall then
12 determine, with respect to each step in the proceedings, whether he or she is a
13 needy person. However, nothing shall prevent appointment of counsel at the
14 earliest necessary proceeding at which the person is entitled to counsel, upon
15 declaration by the person that he or she is needy under the terms of this
16 chapter. In that event, the person involved shall be required to make
17 reimbursement for the representation if he or she later is determined not a
18 needy person under the terms of this chapter.
- 19 (c) A person who, after conviction, is sentenced while being represented by a
20 public defender shall continue to be presumed a needy person, and the court,
21 at the time of sentencing, shall enter an Order In Forma Pauperis for purposes
22 of appeal without having to show further proof of continued indigency, unless
23 the court finds good cause after a hearing to determine that the defendant
24 should not continue to be considered an indigent person.
- 25 (2) In determining whether a person is a needy person and in determining the extent of
26 his or her and, in the case of an unemancipated minor under KRS 31.100(5)(c), his
27 or her custodial parents' or guardians' inability to pay, the court concerned shall

- 1 consider such factors as:
- 2 (a) Income;
- 3 (b) Source of income;
- 4 (c) Property owned;
- 5 (d) Number of motor vehicles owned and in working condition;
- 6 (e) Other assets;
- 7 (f) Outstanding obligations;
- 8 (g) The number and ages of his or her dependents;
- 9 (h) The poverty level income guidelines compiled and published by the United
- 10 States Department of Labor;
- 11 (i) Complexity of the case;
- 12 (j) Amount a private attorney charges for similar services;
- 13 (k) Amount of time an attorney would reasonably spend on the case~~}; and~~
- 14 ~~(l) Payment of money bail, other than a property bond of another, whether~~
- 15 ~~deposited by the person or another, to secure the person's release from~~
- 16 ~~confinement on the present charge of which he or she stands accused or~~
- 17 ~~convicted}; and~~

18 ~~(L)(m)}~~ Any other circumstances presented to the court relevant to financial
 19 status.

20 **Pretrial** release ~~as~~~~[on bail, or any other method of release]~~ provided in KRS
 21 Chapter 431~~};~~ shall not necessarily prevent him or her from being a needy person.
 22 In each case, the person and, if an unemancipated minor under KRS 31.100(5)(c)
 23 and (d), his or her custodial parent or guardian, subject to the penalties for perjury,
 24 shall certify by affidavit of indigency which shall be compiled by the pretrial release
 25 officer, as provided under KRS Chapter 431 and Supreme Court Rules or orders
 26 promulgated pursuant thereto, the material factors relating to his or her ability to
 27 pay in the form the Supreme Court prescribes.

1 (3) The affidavit of indigency, to be subscribed and sworn to by the person and, in the
2 case of an unemancipated minor under KRS 31.100(5)(c), by his or her custodial
3 parent or guardian, shall be as set out herein and contain, at a minimum, the
4 following information:

5 "Commonwealth of Kentucky

6 County of.....

7 Affiant....., being first duly sworn says that he or she is not now represented
8 by private counsel and that he or she does not have the money or assets out of which to
9 employ one; that he or she is indigent and requests the court to appoint counsel.

10 Affiant states that he or she is presently (fill in the blank with one (1) of the following:
11 unemployed, employed full-time, employed part-time, or employed on a seasonal
12 basis).....

13 Affiant states that his or her weekly income is; and that he or she receives
14 (circle any of the following which apply and fill in the blank if necessary)

15 Welfare

16 Food stamps

17 Social Security

18 Workers' compensation

19 Unemployment

20 Retirement disability

21 Other.....

22 Affiant states that he or she owns the following property:

Description	Value
.....
.....
.....;

27 Affiant states that he or she has the following dependents:

1	Name	Age	Relationship
2
3
4;

5 Affiant states that he or she has the following obligations:

6	To whom owed	Amount owing
7
8
9
10	

11 Affiant understands and has been advised that he or she may be held responsible for the
 12 payment of part of the cost of legal representation. Affiant also understands that the cost
 13 of payment for legal representation will be determined by the judge after considering
 14 affiant's financial condition, what private attorneys charge for similar services, how
 15 complicated the affiant's case is, and the amount of time affiant's attorney spends on
 16 affiant's case.

17 Signature of affiant

18 Subscribed and sworn to before me this , day of, 20.....

19

20 Signature and title of officer

21 administering the oath

22 Perjury Warning: Affiant understands that any person knowingly making false statements
 23 in the above affidavit shall be subject to the penalties for perjury under KRS Chapter 523,
 24 the maximum penalty for which is five (5) years' imprisonment. Affiant declares under
 25 penalty of perjury that he or she has read the above affidavit and that it is true and
 26 complete to the best of his or her knowledge."

27 ➔Section 9. KRS 41.300 is amended to read as follows:

1 There shall be a special deposit fund consisting of all money received by the state or any
2 department or officer thereof as guarantees for the payment of any costs, charges or
3 damages accruing or liable to accrue to the state or for the performance of any specific
4 act, including all money deposited~~[as bail to secure the liberation of persons accused of~~
5 ~~public offenses, all money deposited]~~ by bidders on contracts to insure their entering into
6 contracts awarded them, and all money deposited to indemnify persons whose property
7 may be damaged or destroyed by the operations of the depositor. All such money shall be
8 paid to the Treasurer, in the manner provided for the deposit of public money, and shall
9 be deposited by the Treasurer as a trust fund in a separate account in a designated state
10 depository. The money so deposited may be returned to the depositor, if he becomes
11 entitled to its return, without specific appropriation, allotment or authorization for
12 expenditure therefor, in the same manner as other claims against the state may be paid, or
13 may, upon default of any depositor and upon certificate to such effect by the
14 administrative officer having charge of the matter, be declared by the Finance and
15 Administration Cabinet to be forfeited in whole or in part and thereupon be transferred to
16 the extent so forfeited to the general fund. The interest on bank deposits of this fund shall
17 accrue to the general fund.

18 ➔Section 10. KRS 186.260 is amended to read as follows:

19 KRS 281.765 shall apply in the case of arrests~~[and bail]~~ for a violation of any of the
20 provisions of KRS 186.020 to 186.260.

21 ➔Section 11. KRS 186.560 is amended to read as follows:

22 (1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle
23 upon receiving record of his or her:

24 (a) Conviction of any of the following offenses:

- 25 1. Murder or manslaughter resulting from the operation of a motor vehicle;
- 26 2. Driving a vehicle which is not a motor vehicle while under the influence
27 of alcohol or any other substance which may impair one's driving ability;

- 1 3. Perjury or the making of a false affidavit under KRS 186.400 to 186.640
- 2 or any law requiring the registration of motor vehicles or regulating their
- 3 operation on highways;
- 4 4. Any felony in the commission of which a motor vehicle is used;
- 5 5. Conviction ~~off or forfeiture of bail upon~~ three (3) charges of reckless
- 6 driving within the preceding twelve (12) months;
- 7 6. Conviction of driving a motor vehicle involved in an accident and
- 8 failing to stop and disclose his identity at the scene of the accident;
- 9 7. Conviction of theft of a motor vehicle or any of its parts, including the
- 10 conviction of any person under the age of eighteen (18) years;
- 11 8. Failure to have in full force and effect the security required by Subtitle
- 12 39 of KRS Chapter 304 upon conviction of a second and each
- 13 subsequent offense within any five (5) year period;
- 14 9. Conviction for fraudulent use of a driver's license or use of a fraudulent
- 15 driver's license to purchase or attempt to purchase alcoholic beverages,
- 16 as defined in KRS 241.010, in violation of KRS 244.085(4);
- 17 10. Conviction of operating a motor vehicle, motorcycle, or moped without
- 18 an operator's license as required by KRS 186.410; and
- 19 11. Conviction of fleeing or evading police in the second degree when the
- 20 offense involved the operation of a motor vehicle; or
- 21 (b) Being found incompetent to stand trial under KRS Chapter 504.
- 22 (2) If the person convicted of any offense named in subsection (1) of this section or
- 23 who is found incompetent to stand trial is not the holder of a license, the cabinet
- 24 shall deny the person so convicted a license for the same period of time as though
- 25 he had possessed a license which had been revoked. If through an inadvertence the
- 26 defendant should be issued a license, the cabinet shall forthwith cancel it.
- 27 (3) The cabinet, upon receiving a record of the conviction of any person upon a charge

1 of operating a motor vehicle while the license of that person is denied, or
2 suspended, or revoked, or while his privilege to operate a motor vehicle is
3 withdrawn, shall immediately extend the period of the first denial, suspension,
4 revocation, or withdrawal for an additional like period.

5 (4) The revocation or denial of a license or the withdrawal of the privilege of operating
6 a motor vehicle for a violation of subsection (1)(a)1. of this section shall be for a
7 period of not less than five (5) years. Revocations or denials under this section shall
8 not be subject to any lessening of penalties authorized under any other provision of
9 this section or any other statute.

10 (5) Except as provided in subsections (3), (4), (8), and (9) of this section, in all other
11 cases, the revocation or denial of a license or the withdrawal of the privilege of
12 operating a motor vehicle under this section shall be for a period of six (6) months,
13 except that if the same person has had one (1) previous conviction of any offense
14 enumerated in subsection (1) of this section, regardless of whether the person's
15 license was revoked because of the previous conviction, the period of the
16 revocation, denial, or withdrawal shall be one (1) year. If the person has had more
17 than one (1) previous conviction of the offenses considered collectively as
18 enumerated in subsection (1) of this section, regardless of whether the person's
19 license was revoked for any previous conviction, the period of revocation, denial, or
20 withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the
21 written recommendation of the court in which any person has been convicted of
22 violating KRS 189.520(1) or 244.085(4) as relates to instances in which a driver's
23 license or fraudulent driver's license was the identification used or attempted to be
24 used in the commission of the offense, who has had no previous conviction of said
25 offense, the person's operator's license shall not be revoked, but the person's
26 operator's license shall be restricted to any terms and conditions the secretary in his
27 discretion may require, provided the person has enrolled in an alcohol or substance

1 abuse education or treatment program as the cabinet shall require. If the person fails
2 to satisfactorily complete the education or treatment program or violates the
3 restrictions on his operator's license, the cabinet shall immediately revoke his
4 operator's license for a period of six (6) months.

5 (6) In order to secure the reinstatement of a license to operate a motor vehicle or
6 motorcycle restored following a period of suspension pursuant to KRS Chapter
7 189A, the person whose license is suspended shall comply with the fees and other
8 procedures of the Transportation Cabinet with regard to the reinstatement of
9 suspended licenses.

10 (7) The cabinet shall revoke the license of any operator of a motor vehicle upon
11 receiving notification that the person is under age eighteen (18) and has dropped out
12 of school or is academically deficient, as defined in KRS 159.051(1).

13 (8) A person under the age of eighteen (18) who is convicted of the offenses of
14 subsections (1) or (3) of this section, except for subsection (1)(a)8. or 9. of this
15 section, shall have his license revoked until he reaches the age of eighteen (18) or
16 shall have his license revoked as provided in this section, whichever penalty will
17 result in the longer period of revocation.

18 (9) A revocation or denial of a license or the withdrawal of the privilege of operating a
19 motor vehicle under this section due to a person being found incompetent to stand
20 trial shall extend until the person is found competent to stand trial or the criminal
21 case is dismissed.

22 ➔Section 12. KRS 187.400 is amended to read as follows:

23 (1) Whenever any person fails within sixty (60) days to satisfy any judgment, it shall be
24 the duty of the clerk of the court in which any such judgment is rendered within this
25 state to forward to the cabinet immediately after the expiration of said sixty (60)
26 days a certified copy of such judgment. If the defendant named in any certified copy
27 of a judgment reported to the cabinet is a nonresident, the cabinet shall transmit a

1 certified copy of the judgment to the official in charge of the issuance of licenses
2 and registration certificates of the state of which the defendant is a resident.

3 (2) The clerk of the court in which any conviction for violation of a motor vehicle law
4 is rendered, or in which a person charged with violation of a motor vehicle law has
5 pleaded guilty~~[or forfeited bail]~~, shall forward immediately to the cabinet a
6 certified copy of the judgment, order or record of other action of the court. This
7 copy shall be prima facie evidence of the conviction, plea or other action stated.

8 ➔Section 13. KRS 222.203 is amended to read as follows:

9 (1) A peace officer may make an arrest for a violation of KRS 222.202.

10 (2) Any peace officer who arrests a person for violation of KRS 222.202 shall take him
11 to jail. A peace officer may issue a citation and may take the person to a facility
12 authorized by county or city ordinance agreeing to care for the person. If the person
13 is jailed, at the jail it shall be determined if the person has committed a previous
14 offense under KRS 222.202.

15 (3) A citation shall be issued to such person showing thereon the date of such person's
16 appearance in court and whether the offense is prepayable or not.

17 (4) Unless it has been determined that the defendant has had two (2) prior convictions
18 for violation of KRS 222.202 within the previous twelve (12) months, the citation
19 shall be marked as prepayable.

20 (5) If it is determined that this is a third or subsequent offense, then the provisions of
21 KRS Chapter 431 with regard to~~[bail and]~~ pretrial release shall apply.

22 ➔Section 14. KRS 222.204 is amended to read as follows:

23 (1) A person who has been arrested and placed in jail prior to trial for violation of KRS
24 222.202 and has not had two (2) prior convictions in the previous twelve (12)
25 months for violation of KRS 222.202 shall be released~~[as set forth by the Supreme
26 Court Rule of Criminal Procedure uniform schedule of bail]~~:

27 (a) To an adult who is willing to accept responsibility for the defendant through a

1 signature verification on a form determined by the Administrative Office of
2 the Courts;

3 (b) ~~[If he pays the requisite amount of bail on a bail schedule issued by the court;~~

4 ~~(c)—~~At such time as he ***or she*** is able to safely care for himself ***or herself*** but in
5 no event shall he ***or she*** be detained for more than eight (8) hours following
6 his ***or her*** arrest;

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

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

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

12 ➔Section 15. KRS 281.765 is amended to read as follows:

13 Any peace officer, including sheriffs and their deputies, constables and their deputies, city
14 police officers, county police or patrols, and special officers appointed by any agency of
15 the Commonwealth of Kentucky for the enforcement of its laws relating to motor vehicles
16 and boats or boating, now existing or hereafter enacted, shall be authorized and it is
17 hereby made the duty of each of them to enforce the provisions of this chapter and to
18 make arrests for any violation or violations thereof, and for violations of any other law
19 relating to motor vehicles and boating, without warrant if the offense be committed in his
20 ***or her*** presence, and with warrant or summons if he ***or she*** does not observe the
21 commission of the offense. When in pursuit of any offender for any offense committed
22 within his ***or her*** jurisdiction, any such officer may follow and effect an arrest beyond the
23 limits of his ***or her*** jurisdiction. If the arrest be made without warrant, the accused may
24 elect to be immediately taken before the nearest court having jurisdiction, whereupon it
25 shall be the duty of the officer to so take him ***or her***. If the accused elects not to be so
26 taken, ***he or she shall agree***~~[then it shall be the duty of the officer to require of the~~
27 ~~accused a bail bond in a sum not less than one hundred dollars (\$100), conditioned that~~

1 ~~the accused binds himself~~ to appear in the court of jurisdiction at the time fixed~~[in the~~
 2 ~~bond]~~, not however in any case later than six (6) days from the day of arrest.~~[In case the~~
 3 ~~arrested person fails to appear on the day fixed, the bond shall be forfeited in the manner~~
 4 ~~as is provided for the forfeiture of bonds in other cases. No officer shall be permitted to~~
 5 ~~take a cash bond. The officer making the arrest and taking the bond shall report the same~~
 6 ~~to the court having jurisdiction within eighteen (18) hours after taking such bond.]~~

7 ➔Section 16. KRS 281A.010 is amended to read as follows:

- 8 (1) "Alcohol" means:
- 9 (a) Beer, ale, port, or stout and other similar fermented beverages, including sake
 10 or similar products, of any name or description containing one-half of one
 11 percentum (0.5%) or more of alcohol by volume, brewed or produced from
 12 malt, wholly or in part, or from any substitute therefor;
- 13 (b) Wine of not less than one-half of one percentum (0.5%) of alcohol by volume;
- 14 (c) Distilled spirits, which means that substance known as ethyl alcohol, ethanol,
 15 or spirits of wine in any form, including all dilutions and mixtures thereof
 16 from whatever source or by whatever process produced; or
- 17 (d) Any substance containing ethyl alcohol, hydrated oxide of ethyl, spirit of
 18 wine, or any distilled spirits including but not limited to ethanol, methanol,
 19 propanol, and isopropanol.
- 20 (2) "Alcohol concentration" means:
- 21 (a) The number of grams of alcohol per one hundred (100) milliliters of blood;
- 22 (b) The number of grams of alcohol per two hundred ten (210) liters of breath; or
- 23 (c) The number of grams of alcohol per sixty-seven (67) milliliters of urine.
- 24 (3) "Cabinet" means the Transportation Cabinet of the Commonwealth of Kentucky.
- 25 (4) "Commerce" means:
- 26 (a) Any trade, traffic, or transportation within the jurisdiction of the United States
 27 between a place in a state and a place outside of the state, including a place

- 1 outside of the United States; and
- 2 (b) Trade, traffic, and transportation in the United States that affects any trade,
3 traffic, and transportation described in paragraph (a) of this subsection.
- 4 (5) "Commercial driver's license," or "CDL," means a license issued to an individual in
5 accordance with the requirements of this chapter or, if the license is issued by
6 another state in accordance with the Federal Commercial Motor Vehicle Safety Act,
7 to an individual that authorizes the individual to drive any class of commercial
8 motor vehicle.
- 9 (6) "Commercial driver's license information system" or CDLIS means the national
10 information system established to serve as a clearinghouse for locating information
11 related to the licensing and identification of commercial motor vehicle drivers.
- 12 (7) "Commercial driver's instruction permit" means a permit issued pursuant to KRS
13 281A.120.
- 14 (8) "Commercial motor vehicle," or "CMV," means a motor vehicle or combination
15 motor vehicle used in commerce that is:
- 16 (a) Designed to carry property and has a gross vehicle weight rating as determined
17 by federal regulation which has been adopted into cabinet administrative
18 regulations pursuant to KRS Chapter 13A;
- 19 (b) Designed to transport sixteen (16) or more passengers, including the driver;
- 20 (c) Transporting hazardous materials and is required to be placarded in
21 accordance with Title 49, Code of Federal Regulations, Part 172; or
- 22 (d) Any other vehicle that is required by cabinet administrative regulation,
23 pursuant to KRS Chapter 13A, to be operated by a licensed commercial
24 driver.
- 25 (9) "Controlled substance" means any substance so classified under Section 102(6) of
26 the Controlled Substances Act, 21 U.S.C. sec. 802(6), and includes all substances
27 listed on Schedules I through V, of Title 21, Code of Federal Regulations, Part

1 1308, as adopted by the Transportation Cabinet by administrative regulation
2 pursuant to KRS Chapter 13A. It shall also include those substances defined or
3 listed in KRS Chapter 218A.

4 (10) "Conviction" means an unvacated adjudication of guilt, or a determination that a
5 person has violated or failed to comply with the law in a court of original
6 jurisdiction or an authorized administrative tribunal, ~~an unvacated forfeiture of bail~~
7 ~~or collateral deposited to secure the person's appearance in court,~~ a plea of guilty, a
8 plea of nolo contendere, or Alford plea entered and accepted by the court, the
9 payment of a fine or court cost, or violation of a condition of release ~~without bail~~,
10 regardless of whether or not the penalty is rebated, suspended, or probated.

11 (11) "Disqualification" means any of the following actions:

12 (a) The suspension, revocation, or cancellation of a CDL by the Commonwealth
13 or the jurisdiction of issuance;

14 (b) Any withdrawal of a person's privilege to drive a commercial motor vehicle by
15 the Commonwealth or another jurisdiction as a result of a violation of state or
16 local law relating to motor vehicle traffic control, other than parking, vehicle
17 weight, or vehicle defect violations; or

18 (c) A determination by the Federal Motor Carrier Safety Administration that a
19 person is not qualified to operate a commercial motor vehicle under 49 C.F.R.
20 pt. 391.

21 (12) "Drive" means to drive, operate, or be in physical control of a motor vehicle.

22 (13) "Driver" means any person who drives, operates, or is in physical control of a
23 commercial motor vehicle, or who is required to hold a commercial driver's license.

24 (14) "Driver's license" means a license issued by a state to an individual that authorizes
25 the individual to drive a motor vehicle.

26 (15) "Employee" means any operator of a commercial motor vehicle, including full-time,
27 regularly employed drivers; casual, intermittent, or occasional drivers; leased

1 drivers and independent, owner-operator contractors while in the course of
2 operating a commercial motor vehicle who are either directly employed by, under
3 lease to, or operating in a manner indicating employment to an employer.

4 (16) "Employer" means any person, including the United States, a state, or a political
5 subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a
6 person to drive a commercial motor vehicle.

7 (17) "Felony" means any offense under state or federal law that is punishable by death or
8 imprisonment for a term exceeding one (1) year.

9 (18) "Gross combination weight rating," or "GCWR," is the gross vehicle weight rating
10 of power unit plus the gross vehicle weight rating of any towed unit. In the absence
11 of a value specified by the manufacturer, GCWR shall be determined by adding the
12 gross vehicle weight rating of the power unit and the total weight of the towed unit
13 and load therein.

14 (19) "Gross vehicle weight rating," or "GVWR," means the value specified by the
15 manufacturer as the maximum loaded weight of a single, a combination or an
16 articulated vehicle.

17 (20) "Hazardous materials" has the same meaning as in 49 C.F.R. sec. 383.5.

18 (21) "Highway" shall include any way or place of any nature when any part of it is open
19 to the use of the public as a matter of right, license, or privilege for the use of
20 vehicular traffic.

21 (22) "Imminent hazard" means a condition that presents a substantial likelihood that
22 death, serious illness, severe personal injury, or a danger to health, property, or the
23 environment exists.

24 (23) "Moped" shall have the same meaning as in KRS 186.010(5).

25 (24) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled
26 or drawn by mechanical power used on highways, or any other vehicle required to
27 be registered under the laws of this state, but shall not include any vehicle, machine,

1 tractor, trailer, or semitrailers operated exclusively on a rail.

2 (25) "NDR" means the national driver register.

3 (26) "Out-of-service order" means a declaration by an authorized enforcement officer of
4 a federal, state, Canadian, Mexican, or local jurisdiction that a driver, commercial
5 motor vehicle, or a motor carrier operation is out of service pursuant to 49 C.F.R.
6 sec. 386.72, 392.5, 395.13, or 396.9; comparable laws or regulations; or the North
7 American Uniform Out-of-Service Criteria.

8 (27) "Resident" means a person who has established Kentucky as his or her state of
9 domicile. Proof of residency shall include but not be limited to a deed or property
10 tax bill, utility agreement or utility bill, or rental housing agreement.

11 (28) "School bus" means a vehicle that meets the specification of KRS 156.153 used to
12 transport preprimary, primary, or secondary school students between school and
13 home, or to and from school-sponsored events. A school bus shall not include a bus
14 used as a common carrier.

15 (29) "Serious traffic violation" means a conviction when operating a commercial motor
16 vehicle of:

17 (a) Excessive speeding, involving a single charge of any speed fifteen (15) miles
18 per hour or more, above the specified speed limit;

19 (b) Reckless driving, as defined under state or local law, including conviction of
20 driving a commercial motor vehicle in willful or wanton disregard for the
21 safety of persons or property;

22 (c) Improper or erratic traffic lane changes;

23 (d) Following the vehicle ahead too closely;

24 (e) A violation of any state or local law related to motor vehicle traffic control,
25 other than a parking violation, arising in connection with a fatal accident;

26 (f) Driving a commercial motor vehicle without a CDL;

27 (g) Driving a commercial motor vehicle without a CDL in one's possession or

1 refusing to display a CDL upon request;

2 (h) Driving a commercial motor vehicle without the proper class of CDL or
3 endorsements, or both, for the specific vehicle type or types being operated or
4 for the passengers or type or types of cargo being transported; or

5 (i) Any conviction of an offense that requires mandatory suspension under KRS
6 186.560 or a serious violation as defined by Title 49 of the Code of Federal
7 Regulations Part 383 or as amended by the Federal Highway Administration.

8 (30) "State" means a state of the United States and the District of Columbia.

9 (31) "State police" means the Department of Kentucky State Police.

10 (32) "Vehicle" means every device in, upon, or by which any person or property is or
11 may be transported or drawn along a public highway, except devices moved by
12 human or animal power, used exclusively upon stationary rails or tracks, or which
13 derives its power from overhead wires.

14 ➔Section 17. KRS 413.120 is amended to read as follows:

15 The following actions shall be commenced within five (5) years after the cause of action
16 accrued:

17 (1) An action upon a contract not in writing, express or implied.

18 (2) An action upon a liability created by statute, when no other time is fixed by the
19 statute creating the liability.

20 (3) An action for a penalty or forfeiture when no time is fixed by the statute prescribing
21 it.

22 (4) An action for trespass on real or personal property.

23 (5) An action for the profits of or damages for withholding real or personal property.

24 (6) An action for an injury to the rights of the plaintiff, not arising on contract and not
25 otherwise enumerated.

26 (7) An action upon a bill of exchange, check, draft or order, or any endorsement
27 thereof, or upon a promissory note, placed upon the footing of a bill of exchange.

- 1 (8) An action to enforce the liability of a steamboat or other vessel.
- 2 (9) An action upon a merchant's account for goods sold and delivered, or any article
3 charged in such store account.
- 4 (10) An action upon an account concerning the trade of merchandise, between merchant
5 and merchant or their agents.
- 6 (11) An action for relief or damages on the ground of fraud or mistake.
- 7 (12) ~~[An action to enforce the liability of bail.~~
- 8 ~~(13) [An action for personal injuries suffered by any person against the builder of a home
9 or other improvements. This cause of action shall be deemed to accrue at the time of
10 original occupancy of the improvements which the builder caused to be erected.~~

11 ➔Section 18. KRS 419.020 is amended to read as follows:

12 The writ of habeas corpus shall be issued upon petition on behalf of anyone showing by
13 affidavit probable cause that he or she is being detained without lawful authority or is
14 being imprisoned when by law he or she is entitled to release~~[bail]~~. The writ may be
15 issued by any Circuit Judge on any day at any time and his power to issue such writs shall
16 be coextensive with the Commonwealth.

17 ➔Section 19. KRS 421.500 is amended to read as follows:

- 18 (1) (a) As used in KRS 421.500 to 421.575, "victim" means an individual directly
19 and proximately harmed as a result of:
- 20 1. The commission of a crime classified as a felony; a misdemeanor
21 involving threatened or actual physical injury, harassment, or restraint; a
22 misdemeanor involving a child or incompetent person; or a
23 misdemeanor involving a sexual offense or a trespass; or
- 24 2. Conduct which, if committed by an adult, would be classified as a felony
25 or a misdemeanor described in subparagraph 1. of this paragraph.

26 If the victim is a minor, incapacitated, or deceased, "victim" also means one
27 (1) or more of the victim's spouse, parents, siblings, children, or other lawful

1 representatives which shall be designated by the court unless the person is the
2 defendant or a person the court finds would not act in the best interests of the
3 victim.

4 (b) In a case in which the number of victims makes it impracticable to accord all
5 victims those rights provided by KRS 421.500 to 421.575, the court may
6 fashion a reasonable procedure that does not unduly complicate or prolong the
7 proceeding, to give effect to this section.

8 (c) If the victim is deceased and the relation is not the defendant, the following
9 relations shall be designated as "victims" for the purpose of presenting victim
10 impact testimony under KRS 532.055(2)(a)7.:

- 11 1. A spouse;
- 12 2. An adult child;
- 13 3. A parent;
- 14 4. A sibling; and
- 15 5. A grandparent.

16 (2) If any court believes that the health, safety, or welfare of a victim who is a minor or
17 is legally incapacitated would not otherwise adequately be protected, the court may
18 appoint a special advocate to represent the interest of the victim and to exercise
19 those rights provided for by KRS 421.500 to 421.575. Communication between the
20 victim and the special advocate shall be privileged.

21 (3) Law enforcement personnel shall ensure that victims receive information on
22 available protective, emergency, social, and medical services upon initial contact
23 with the victim and are given information on the following as soon as possible:

- 24 (a) Availability of crime victim compensation where applicable;
- 25 (b) Community-based treatment programs;
- 26 (c) The criminal justice process as it involves the participation of the victim or
27 witness;

- 1 (d) The arrest of the accused; and
- 2 (e) How to register to be notified when a person has been released from prison,
3 jail, a juvenile detention facility, or a psychiatric facility or forensic
4 psychiatric facility if the case involves a violent crime as defined in KRS
5 439.3401 and the person charged with or convicted of the offense has been
6 involuntarily hospitalized pursuant to KRS Chapter 202A.
- 7 (4) Law enforcement officers and attorneys for the Commonwealth shall provide
8 information to victims and witnesses on how they may be protected from
9 intimidation, harassment, and retaliation as defined in KRS 524.040 or 524.055.
- 10 (5) Attorneys for the Commonwealth shall make a reasonable effort to insure that:
- 11 (a) All victims and witnesses who are required to attend criminal justice
12 proceedings are notified promptly of any scheduling changes that affect their
13 appearances;
- 14 (b) If victims so desire and if they provide the attorney for the Commonwealth
15 with a current address and telephone number, they shall receive prompt
16 notification, if possible, of judicial proceedings relating to their case,
17 including but not limited to the defendant's release on bond and any special
18 conditions of release; of the charges against the defendant, the defendant's
19 pleading to the charges, and the date set for the trial; of notification of changes
20 in the custody of the defendant and changes in trial dates; of the verdict, the
21 victim's right to make an impact statement for consideration by the court at the
22 time of sentencing of the defendant, the date of sentencing, the victim's right
23 to receive notice of any parole board hearing held for the defendant, and that
24 the office of Attorney General will notify the victim if an appeal of the
25 conviction is pursued by the defendant; and of a scheduled hearing for shock
26 probation or for release on his or her own recognizance~~[bail]~~ pending appeal
27 and any orders resulting from that hearing;

- 1 (c) The victim knows how to register to be notified when a person has been
2 released from a prison, jail, a juvenile detention facility, or a psychiatric
3 facility or forensic psychiatric facility if the case involves a violent crime as
4 defined in KRS 439.3401 and the person charged with or convicted of the
5 offense has been involuntarily hospitalized pursuant to KRS Chapter 202A;
- 6 (d) The victim receives information on available:
- 7 1. Protective, emergency, social, and medical services;
 - 8 2. Crime victim compensation, where applicable;
 - 9 3. Restitution, where applicable;
 - 10 4. Assistance from a victim advocate; and
 - 11 5. Community-based treatment programs; and
- 12 (e) The victim of crime may, pursuant to KRS 15.247, receive protection from
13 harm and threats of harm arising out of cooperation with law enforcement and
14 prosecution efforts.
- 15 (6) The victim shall be consulted by the attorney for the Commonwealth on the
16 disposition of the case, including dismissal, release of the defendant pending
17 judicial proceedings, any conditions of release, a negotiated plea, and entry into a
18 pretrial diversion program.
- 19 (7) In prosecution for offenses listed in this section for the purpose of defining
20 "victim," law enforcement agencies and attorneys for the Commonwealth shall
21 promptly return a victim's property held for evidentiary purposes unless there is a
22 compelling reason for retaining it. Photographs of such property shall be received
23 by the court as competent evidence in accordance with the provisions of KRS
24 422.350.
- 25 (8) A victim or witness who so requests shall be assisted by law enforcement agencies
26 and attorneys for the Commonwealth in informing employers that the need for
27 victim or witness cooperation in the prosecution of the case may necessitate absence

1 of that victim or witness from work.

2 (9) The Attorney General, where possible, shall provide technical assistance to law
3 enforcement agencies and attorneys for the Commonwealth if such assistance is
4 requested for establishing a victim assistance program.

5 (10) If a defendant seeks appellate review of a conviction and the Commonwealth is
6 represented by the Attorney General, the Attorney General shall make a reasonable
7 effort to notify victims promptly of the appeal, the status of the case, and the
8 decision of the appellate court.

9 (11) Full restitution to a named victim, if there is a named victim, shall be ordered by the
10 court to be paid by the convicted or adjudicated party in a manner consistent,
11 insofar as possible, with this section and KRS 439.563, 532.032, 532.033, 533.020,
12 and 533.030 in addition to any other penalty.

13 (12) Nothing in KRS 421.500 to 421.575 shall be construed as altering the presumption
14 of innocence in the criminal justice system, or to be a waiver of sovereign immunity
15 or any other immunity or privilege maintained by the Commonwealth; its cabinets,
16 departments, bureaus, political subdivisions, and agencies; and its officers, agents,
17 and employees.

18 ➔Section 20. KRS 431.064 is amended to read as follows:

19 (1) In making a decision concerning pretrial release of a person who is arrested for a
20 violation of KRS Chapter 508 or 510, or charged with a crime involving a violation
21 of an order of protection as defined in KRS 403.720 and 456.010, the court or
22 agency having authority to make a decision concerning pretrial release shall review
23 the facts of the arrest and detention of the person and determine whether the person:

24 (a) Is a threat to the alleged victim or other family or household member; and

25 (b) Is reasonably likely to appear in court.

26 (2) Before releasing a person arrested for or charged with a crime specified in
27 subsection (1) of this section, the court shall make findings, on the record if

1 possible, concerning the determination made in accordance with subsection (1) of
2 this section, and may impose conditions of release~~[or bail]~~ on the person to protect
3 the alleged victim of domestic violence or abuse and to ensure the appearance of the
4 person at a subsequent court proceeding. The conditions may include:

5 (a) An order enjoining the person from threatening to commit or committing acts
6 of domestic violence or abuse against the alleged victim or other family or
7 household member;

8 (b) An order prohibiting the person from harassing, annoying, telephoning,
9 contacting, or otherwise communicating with the alleged victim, either
10 directly or indirectly;

11 (c) An order directing the person to vacate or stay away from the home of the
12 alleged victim and to stay away from any other location where the victim is
13 likely to be;

14 (d) An order prohibiting the person from using or possessing a firearm or other
15 weapon specified by the court;

16 (e) An order prohibiting the person from possession or consumption of alcohol or
17 controlled substances;

18 (f) Any other order required to protect the safety of the alleged victim and to
19 ensure the appearance of the person in court; or

20 (g) Any combination of the orders set out in paragraphs (a) to (f) of this
21 subsection.

22 (3) If conditions of release are imposed, the court imposing the conditions on the
23 arrested or charged person shall:

24 (a) Issue a written order for conditional release; and

25 (b) Immediately distribute a copy of the order to pretrial services.

26 (4) The court shall provide a copy of the conditions to the arrested or charged person
27 upon release. Failure to provide the person with a copy of the conditions of release

1 does not invalidate the conditions if the arrested or charged person has notice of the
2 conditions.

3 (5) If conditions of release are imposed without a hearing, the arrested or charged
4 person may request a prompt hearing before the court to review the conditions.
5 Upon request, the court shall hold a prompt hearing to review the conditions.

6 (6) The victim, as defined in KRS 421.500, of the defendant's alleged crime, or an
7 individual designated by the victim in writing, shall be entitled to a free certified
8 copy of the defendant's conditions of release, or modified conditions of release,
9 upon request to the clerk of the court which issued the order releasing the defendant.
10 The victim or the victim's designee may personally obtain the document at the
11 clerk's office or may have it delivered by mail.

12 (7) The circuit clerk or the circuit clerk's designee, in cooperation with the court that
13 issued the order releasing the defendant, shall cause the conditions of release to be
14 entered into the computer system maintained by the clerk and the Administrative
15 Office of the Courts within twenty-four (24) hours following its filing, excluding
16 weekends and holidays. Any modification of the release conditions shall likewise be
17 entered by the circuit clerk, or the circuit clerk's designee.

18 (8) The information entered under this section shall be accessible to any agency
19 designated by the Department of Kentucky State Police as a terminal agency for the
20 Law Information Network of Kentucky.

21 (9) All orders issued under this section which require entry into the Law Information
22 Network of Kentucky shall be entered on forms prescribed by the Administrative
23 Office of the Courts. If the conditions of pretrial release are contained in an order
24 which is narrative in nature, the prescribed form shall be used in addition to the
25 narrative order.

26 (10) Any person who violates any condition of an order issued pursuant to this section is
27 guilty of a Class A misdemeanor.

1 ➔Section 21. KRS 431.510 is amended to read as follows:

- 2 (1) It shall be unlawful for any person to engage in the business of bail bondsman as
3 defined in subsection (3) of this section, or to otherwise for compensation or other
4 consideration:
- 5 (a) Furnish bail or funds or property to serve as bail; or
6 (b) Make bonds or enter into undertakings as surety;
7 for the appearance of persons charged with any criminal offense or violation of law
8 or ordinance punishable by fine, imprisonment or death, before any of the courts of
9 this state, including city courts, or to secure the payment of fines imposed and of
10 costs assessed by such courts upon a final disposition.
- 11 (2) Nothing contained herein shall serve to release any bail bondsman heretofore
12 licensed by this state from the obligation of undischarged bail bond liability existing
13 on June 19, 1976.
- 14 (3) "Bail bondsman" shall mean any person, partnership, or corporation engaged for
15 profit in the business of furnishing bail, making bonds or entering into undertakings,
16 as surety, for the appearance of persons charged with any criminal offense or
17 violation of law or ordinance punishable by fine, imprisonment, or death, before any
18 of the courts of this state, or securing the payment of fines imposed and of costs
19 assessed by such courts upon final disposition thereof, and the business of a bail
20 bondsman shall be limited to the acts, transactions, and undertakings described in
21 this subsection and to no other.
- 22 (4) KRS 431.510 to 431.550 shall not be construed to ~~limit or repeal KRS 431.021 or~~
23 ~~to~~ prevent licensed insurers providing security required by Subtitle 39 of KRS
24 Chapter 304 and nonprofit associations from posting or causing to be posted by
25 licensed insurers security or acting as surety for their insureds or members for an
26 offense arising from the operation of a motor vehicle, provided that such posting of
27 security or acting as surety is merely incidental to the terms and conditions of an

1 insurance contract or a membership agreement and provided further that no separate
2 premium or charge therefor is required from the insureds or members.

3 →Section 22. KRS 431.520 is amended to read as follows:

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

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

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

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

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

22 ~~(b) With the ten percent (10%) deposit as provided in KRS 431.530; provided~~
23 ~~that if the defendant is permitted to earn credit toward bail pursuant to KRS~~
24 ~~431.066, that credit shall be applied to the ten percent (10%) deposit; or~~

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

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

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

10 (b) Order the person to use an alcohol monitoring device, as defined in KRS
 11 431.068. All costs associated with the device, including administrative and
 12 operating costs, shall be paid by the defendant. If the court determines that the
 13 defendant is indigent, and a person, county, or other organization has not
 14 agreed to pay the costs for the defendant in an attempt to reduce incarceration
 15 expenses and increase public safety, the court shall consider other conditions
 16 of release provided for in this section;

17 ~~(4)~~~~(5)~~ (a) During all or part of a person's period of release pursuant to this section,
 18 order the person to participate in a global positioning monitoring system
 19 program operated by a county pursuant to KRS 67.372 and 67.374 under the
 20 same terms and conditions provided under KRS 431.517.

21 (b) If the person is charged with a sex crime as defined in KRS 17.500, consider
 22 requiring that he or she be monitored electronically, and shall consider
 23 requiring the person be subject to home incarceration;

24 ~~(5)~~~~(6)~~ Impose any other *non-financial* condition deemed reasonably necessary to
 25 assure appearance as required, including a condition requiring that the person return
 26 to custody after specified hours;

27 ~~(6)~~~~(7)~~ A court authorizing the release of a person pursuant to this section shall cause

1 the issuance of an appropriate order containing a statement of the conditions
2 imposed, if any, shall cause such person to be informed of the penalties applicable
3 to violations of the conditions of his or her release, and shall cause him or her to be
4 informed that a warrant for his or her arrest will be issued immediately upon any
5 such violation;

6 ~~(7)~~~~(8)~~ A person for whom conditions of release are imposed and who after twenty-
7 four (24) hours from the time of the imposition of said conditions continues to be
8 detained as a result of his or her inability to meet the conditions of release shall,
9 upon written application or upon the court's own motion, be entitled to have the
10 conditions reviewed by the court which imposed them. A person who is ordered
11 released on a condition which requires that he or she return to custody after
12 specified hours shall, upon written application or upon the court's own motion, be
13 entitled to a review by the court which imposed the condition; or

14 ~~(8)~~~~(9)~~ If at any time following release of a defendant and before he or she is required
15 to appear for trial, the court is advised of a material change in the defendant's
16 circumstances or that he or she has not complied with all conditions imposed upon
17 his or her release, the court having jurisdiction may~~[-~~

18 ~~(a) —] order the arrest of the defendant[-~~

19 ~~(b) — Enter an order requiring the defendant, his surety or sureties to appear and~~
20 ~~show cause why the bail bond should not be forfeited or the conditions of his~~
21 ~~release be changed; or~~

22 ~~(c) — Both].~~

23 A copy of said order shall be served upon the defendant~~[- his surety or sureties].~~ If
24 the defendant fails to appear before the court as ordered or if, after hearing, the
25 court finds the conditions of release have not been complied with, the court may
26 change the conditions imposed~~[- or forfeit the bail bond or any portion thereof and~~
27 ~~enter a judgment for the Commonwealth against the defendant and his surety or~~

1 ~~sureties for the amount of the bail bond or any portion thereof and cost of the~~
2 ~~proceedings].~~

3 ➔ Section 23. KRS 431.525 is amended to read as follows:

- 4 (1) ~~[The amount of the bail shall be:~~
- 5 ~~(a) — Sufficient to insure compliance with the conditions of release set by the court;~~
- 6 ~~(b) — Not oppressive;~~
- 7 ~~(c) — Commensurate with the nature of the offense charged;~~
- 8 ~~(d) — Considerate of the past criminal acts and the reasonably anticipated conduct of the~~
9 ~~defendant if released; and~~
- 10 ~~(e) — Considerate of the financial ability of the defendant.~~
- 11 (2) ~~When a person is charged with an offense punishable by fine only, the amount of~~
12 ~~the bail bond set shall not exceed the amount of the maximum penalty and costs.~~
- 13 (3) ~~When a person has been convicted of an offense and only a fine has been imposed,~~
14 ~~the amount of the bail shall not exceed the amount of the fine.~~
- 15 (4) ~~When a person has been charged with one (1) or more misdemeanors, the amount of~~
16 ~~the bail for all charges shall be encompassed by a single amount of bail that shall~~
17 ~~not exceed the amount of the fine and court costs for the one (1) highest~~
18 ~~misdemeanor charged. This subsection shall apply only to misdemeanor offenses~~
19 ~~not involving physical injury or sexual contact.~~
- 20 (5) ~~When a person has been convicted of a misdemeanor offense and a sentence of jail,~~
21 ~~probation, conditional discharge, or sentence other than a fine only has been~~
22 ~~imposed, the amount of bail for release on appeal shall not exceed double the~~
23 ~~amount of the maximum fine that could have been imposed for the one (1) highest~~
24 ~~misdemeanor offense for which the person was convicted. This subsection shall~~
25 ~~apply only to misdemeanors not involving physical injury or sexual contact.~~
- 26 (6) ~~The provisions of this section shall not apply to a defendant who is found by the~~
27 ~~court to present a flight risk or to be a danger to others.~~

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

4 ~~(8)]The Administrative Office of the Courts shall establish pilot projects to implement~~
5 ~~controlled substance or alcohol abuse testing as specified under this~~
6 ~~section[subsection].~~

7 **(2)** If the person's record indicates a history of controlled substance or alcohol abuse,
8 the court may order the person to submit to periodic testing for use of controlled
9 substances or alcohol and to pay a reasonable fee, not to exceed the actual cost of
10 the test and analysis, as determined by the court, with the fee to be collected by the
11 circuit clerk, held in an agency account, and disbursed, on court order, solely to the
12 agency or agencies responsible for testing and analysis as compensation for the cost
13 of the testing and analysis performed under this subsection. If the person is declared
14 indigent, the testing fee may be waived by the court.

15 **(3)** If the court finds the conditions of release have not been complied with, the court
16 may change the conditions imposed~~[or forfeit the bail bond or any portion thereof~~
17 ~~and enter a judgment for the Commonwealth against the person and his surety or~~
18 ~~sureties for the amount of the bail bond or any portion thereof and the cost of the~~
19 ~~proceedings].~~

20 ➔Section 24. KRS 431.550 is amended to read as follows:

21 Any person who violates any provisions of KRS 431.510 to ~~431.545~~ **431.525** not
22 otherwise punishable by law or statute shall be guilty of a Class A misdemeanor for the
23 first offense, and guilty of a Class D felony for each additional offense.

24 ➔Section 25. KRS 438.286 is amended to read as follows:

25 KRS 438.282 and 438.284 shall not apply to:

26 (1) A unit of federal, state, or local government, or special district, or an agency or
27 instrumentality thereof;

- 1 (2) A person engaged in the business of electronic monitoring of an individual as a
2 condition of that individual's community supervision, parole, mandatory
3 supervision, or pretrial release~~[, or release on bail]~~ relating to a judicial proceeding;
4 or
- 5 (3) A person not engaged in the business of personal emergency response system
6 provider as defined in KRS 438.280.

7 →Section 26. KRS 440.020 is amended to read as follows:

8 An escaped convict, after he or she is reconfined, shall remain in the penitentiary until the
9 time of his trial for the escape without an examining trial or pretrial release~~[bail]~~. His or
10 her acquittal for the offense of escape shall not affect the original sentence.

11 →Section 27. KRS 440.030 is amended to read as follows:

12 If any person in custody under an execution, on mesne or final process, by any order of a
13 judge or on a charge of crime escapes, any judge, upon complaint and affidavit made of
14 the fact, shall issue as many warrants for his or her capture directed to all peace officers
15 as he or she deems necessary. The cause of the person's original commitment shall be
16 mentioned in the warrant, and it shall command all peace officers to capture the prisoner
17 and forthwith to convey and commit him or her to the prison of the county from which he
18 or she escaped, to be safely kept there,~~[without bail,]~~ until discharged by due course of
19 law. The warrant, with the proper endorsement thereon, shall be returned by the proper
20 officer to the clerk of the court having jurisdiction of the cause for which the prisoner was
21 in custody.

22 →Section 28. KRS 440.290 is amended to read as follows:

23 If from the examination before the judge it appears that the person held is the person
24 charged with having committed the crime alleged and, except in cases arising under KRS
25 440.210, that he or she has fled from justice, the judge must, by a warrant reciting the
26 accusation, commit him or her to the county jail for such a time not exceeding thirty (30)
27 days and specified in the warrant, as will enable the arrest of the accused to be made

1 under a warrant of the Governor on a requisition of the executive authority of the state
2 having jurisdiction of the offense, unless the accused was released~~[give bail]~~ as provided
3 in KRS 440.300, or until he shall be legally discharged.

4 →Section 29. KRS 440.300 is amended to read as follows:

5 Unless the offense with which the prisoner is charged is shown to be an offense
6 punishable by death or life imprisonment under the laws of the state in which it was
7 committed, a judge in this state may admit the person arrested to pretrial release~~[bail by~~
8 ~~bond, with sufficient sureties, and in such sum as he deems proper]~~, conditioned for his
9 or her appearance before him or her at a time specified in such bond, and for his or her
10 surrender, to be arrested upon the warrant of the Governor of this state.

11 →Section 30. KRS 440.310 is amended to read as follows:

12 If the accused is not arrested under warrant of the Governor by the expiration of the time
13 specified in the warrant or bond, the judge may discharge the accused~~[him]~~ or may
14 recommit him or her for a further period not to exceed sixty (60) days, or may again
15 release him or her~~[take bail for his appearance and surrender]~~, as provided in KRS
16 440.300, but within a period not to exceed sixty (60) days after the date of such new
17 pretrial release~~[bond]~~.

18 →Section 31. KRS 440.320 is amended to read as follows:

19 If the prisoner is admitted to bail, and fails to appear and surrender himself or herself
20 according to the conditions of his or her pretrial release~~[bond]~~, the judge, by proper
21 order, shall~~[declare the bond forfeited and]~~ order his or her immediate arrest without
22 warrant if he or she be within this state. Recovery may be had on such bond in the name
23 of the state as in the case of other bonds given by the accused in criminal proceedings
24 within this state.

25 →Section 32. KRS 440.360 is amended to read as follows:

26 Whenever the Governor of this state shall demand a person charged with crime or with
27 escaping from confinement or breaking the terms of his or her pretrial release~~[bail]~~,

1 probation or parole in this state, from the executive authority of any other state, or from
2 the Chief Justice or an Associate Justice of the Supreme Court of the District of
3 Columbia authorized to receive such demand under the laws of the United States, he or
4 she shall issue a warrant under the seal of this state, to some agent, commanding him or
5 her to receive the person so charged if delivered to him or her and convey him or her to
6 the proper officer of the county in this state in which the offense was committed.

7 →Section 33. KRS 440.370 is amended to read as follows:

8 (1) When the return to this state of a person charged with crime in this state is required,
9 the Commonwealth's attorney or county attorney shall present to the Governor his
10 or her written application for a requisition for the return of the person charged, in
11 which application shall be stated the name of the person so charged, the crime
12 charged against him or her, the approximate time, place and circumstances of its
13 commission, the state in which he or she is believed to be, including the location of
14 the accused therein at the time the application is made and certifying that, in the
15 opinion of the said prosecuting attorney the ends of justice require the arrest and
16 return of the accused to this state for trial and that the proceeding is not instituted to
17 enforce a private claim.

18 (2) When the return to this state is required of a person who has been convicted of a
19 crime in this state and escaped from confinement or broken the terms of his or her
20 pretrial release~~[bail]~~, probation or parole, the Commonwealth's attorney or county
21 attorney of the county in which the offense was committed, the chairman of the
22 parole board, or the warden of the institution or county attorney of the county from
23 which escape was made, shall present to the Governor a written application for a
24 requisition for the return of such person, in which application shall be stated the
25 name of the person, the crime of which he or she was convicted, the circumstances
26 of his or her escape from confinement or of the breach of the terms of his or her
27 pretrial release~~[bail]~~, probation or parole, the state in which he or she is believed to

1 be, including the location of the person therein at the time application is made.

2 (3) The application shall be verified by affidavit, shall be executed in triplicate and
3 shall be accompanied by three (3) certified copies of the indictment returned, or
4 affidavit made before a judge and warrant of arrest issued thereon, stating the
5 offense with which the accused is charged, or of the judgment of conviction or of
6 the sentence. The Commonwealth's attorney or county attorney, chairman of the
7 parole board or warden shall also attach such further affidavits and other documents
8 in triplicate as he *or she* or the Attorney General may deem proper to be submitted
9 with such application. When the application is made pursuant to subsection (1) of
10 this section, the prosecuting attorney shall, unless the case is of the type mentioned
11 in KRS 440.210, submit to the Governor proof in the form of an affidavit that the
12 accused was personally present in this state at the time of commission of the crime
13 charged. One (1) copy of the application, with the action of the Governor indicated
14 by endorsement thereon, and one (1) of the certified copies of the indictment,
15 affidavit and warrant, or of the judgment of conviction or of the sentence shall be
16 filed in the Office of the Secretary of State to remain of record in that office. The
17 other copies of all papers shall be forwarded with the Governor's requisition.

18 ➔Section 34. KRS 440.380 is amended to read as follows:

19 (1) When a person charged with commission of a felony in this state or with having
20 been convicted of a felony here and having escaped from confinement or broken the
21 terms of his *or her pretrial release*~~[bail]~~, probation or parole is arrested in another
22 state and waives extradition proceedings, the county judge/executive of the county
23 in which the felony was committed, or from which the escape was made, may, upon
24 filing of a verified application by the Commonwealth's attorney or county attorney
25 setting forth the fact of waiver and making all statements required by subsection (1)
26 or subsection (2) of KRS 440.370, enter an order designating an officer to return the
27 fugitive to this state without benefit of any procedure incidental to extradition

1 proceedings. Upon entry of such order the officer so designated shall be authorized
 2 to go after and return the fugitive as the agent of this state and shall receive from the
 3 State Treasury the same payment for his or her expenses as is provided by KRS
 4 440.090 for agents acting under requisition of the Governor. If, in attempting to
 5 reclaim the fugitive, the agent is acting within the course and scope of his or her
 6 employment, the amount due shall be paid over to the agent's employer instead of
 7 the agent. Claims for reimbursement of expenses under this subsection shall be
 8 accompanied by certified copies of the verified application for appointment of the
 9 agent and the order of appointment, together with a copy of any process showing
 10 delivery of the fugitive to the jailer upon return to this state. If the agent is not given
 11 possession of the fugitive for reasons beyond the agent's control, ~~the agent~~^[he], or
 12 his or her employer, shall nevertheless be reimbursed as provided herein, if it is
 13 shown that prior to his or her appointment as agent and before departure from the
 14 state the fugitive had executed in the presence of any officer authorized to
 15 administer an oath a written waiver stating that he or she consents to return to this
 16 state without extradition.

17 (2) All legal costs incurred in apprehending and securing in this state a fugitive wanted
 18 in another state shall be paid by the agent of the state demanding him or her before
 19 the agent is permitted to remove ~~the fugitive~~^[him] or receive ~~the fugitive~~^[him] into
 20 custody.

21 ➔Section 35. KRS 452.260 is amended to read as follows:

22 If the defendant is in custody, the order for the change of venue shall be accompanied by
 23 an order for his or her removal by the sheriff or jailer of the county in which he or she is
 24 held, with such sufficient guard as the court directs, and for his or her delivery to the
 25 jailer of the county where the trial is to be held. If the defendant is under his or her own
 26 recognizance~~[or bond for his appearance]~~, he or she shall be ordered to appear before~~],~~
 27 ~~before the order is granted, give sufficient bail for his appearance at] the proper court[, or~~

1 ~~be surrendered into the custody of the proper officer].~~

2 ➔Section 36. KRS 520.010 is amended to read as follows:

3 The following definitions apply in this chapter, unless the context otherwise requires:

- 4 (1) "Contraband" means any article or thing which a person confined in a detention
5 facility is prohibited from obtaining or possessing by statute, departmental
6 regulation, or posted institutional rule or order;
- 7 (2) "Custody" means restraint by a public servant pursuant to a lawful arrest, detention,
8 or an order of court for law enforcement purposes, but does not include supervision
9 of probation or parole or constraint incidental to pretrial release~~[on bail]~~;
- 10 (3) "Dangerous contraband" means contraband which is capable of use to endanger the
11 safety or security of a detention facility or persons therein, including, but not limited
12 to, dangerous instruments as defined in KRS 500.080; any controlled substances;
13 any quantity of an alcoholic beverage; any quantity of marijuana; cell phones not
14 authorized under KRS 441.111; drones, unmanned aircraft, or other remotely
15 controlled vehicles, and any payload carried by those vehicles; and saws, files, and
16 similar metal cutting instruments;
- 17 (4) "Detention facility" means any building and its premises used for the confinement
18 of a person:
- 19 (a) Charged with or convicted of an offense;
- 20 (b) Alleged or found to be delinquent;
- 21 (c) Held for extradition or as a material witness; or
- 22 (d) Otherwise confined pursuant to an order of court for law enforcement
23 purposes;
- 24 (5) "Escape" means departure from custody or the detention facility in which a person
25 is held or detained when the departure is unpermitted, or failure to return to custody
26 or detention following a temporary leave granted for a specific purpose or for a
27 limited period; and

1 (6) As used in this section and KRS 520.015, "penitentiary" includes any facility
2 operated by the Department of Corrections and the confines of any work detail or
3 other detail, whether under guard or not, under the custody and control of the
4 Department of Corrections.

5 ➔Section 37. KRS 520.070 is amended to read as follows:

6 (1) A person is guilty of bail jumping in the first degree when, having been released
7 from custody by court order~~[, with or without bail,]~~ upon condition that he or she
8 will subsequently appear at a specified time and place in connection with a charge
9 of having committed a felony, he or she intentionally fails to appear at that time and
10 place.

11 (2) In any prosecution for bail jumping, the defendant may prove in exculpation that his
12 or her failure to appear was unavoidable and due to circumstances beyond his or
13 her control.

14 (3) Bail jumping in the first degree is a Class D felony.

15 ➔Section 38. KRS 520.080 is amended to read as follows:

16 (1) A person is guilty of bail jumping in the second degree when, having been released
17 from custody by court order~~[, with or without bail,]~~ upon condition that he or she
18 will subsequently appear at a specified time and place in connection with a charge
19 of having committed a misdemeanor, he or she intentionally fails to appear at that
20 time and place.

21 (2) In any prosecution for bail jumping, the defendant may prove in exculpation that his
22 or her failure to appear was unavoidable and due to circumstances beyond his
23 control.

24 (3) Bail jumping in the second degree is a Class A misdemeanor.

25 ➔Section 39. KRS 532.115 is amended to read as follows:

26 The court in sentencing a person convicted of a felony, shall be authorized to run the
27 sentence concurrent with any federal sentence received by that defendant for a federal

1 crime and any sentence received by that defendant in another state for a felony offense.
2 The time spent in federal custody and the time spent in custody in another state under the
3 concurrent sentencing shall count as time spent in state custody; but the federal custody
4 and custody in another state shall not include time spent on probation or parole or
5 constraint incidental to ***pretrial*** release~~[on bail]~~. If the court does not specify that its
6 sentence is to run concurrent with a specific federal sentence or sentence of another state,
7 the sentence shall not run concurrent with any federal sentence or sentence of another
8 state.

9 ➔Section 40. KRS 610.190 is amended to read as follows:

10 (1) The law relating to the persons by whom and the circumstances under which a
11 person may be arrested for a public offense shall be applicable to children, but the
12 taking of a child into custody under such law shall not be termed an arrest until the
13 court has made the decision to try the child in Circuit or District Court as an adult.

14 The law relating to ***pretrial release***~~[bail]~~ shall not be applicable to children detained
15 in accordance with this chapter unless the child is subject to being tried in Circuit or
16 District Court as an adult.

17 (2) A peace officer may take a child into protective custody if the officer suspects the
18 child to be a runaway. A child taken into protective custody under this subsection
19 shall not be considered to have been arrested and may be held at the locations
20 specified in KRS 610.220(1), after which the officer shall proceed with an initial
21 investigation as provided for in KRS 610.200.

22 (3) When a child is taken into custody by a person other than a peace officer, such
23 person shall as soon as possible place the child in the custody of a peace officer.

24 ➔Section 41. KRS 640.020 is amended to read as follows:

25 (1) Any person proceeded against as a youthful offender under the provisions of this
26 chapter who is under eighteen (18) years of age shall be detained in a secure
27 juvenile detention facility if he is unable to meet the conditions of release~~[or bail]~~

1 established pursuant to KRS Chapter 431 and the Kentucky Rules of Criminal
2 Procedure.

3 (2) Any person proceeded against as a youthful offender under the provisions of this
4 chapter who is eighteen (18) years of age or older shall be lodged as an adult if he is
5 unable to meet the conditions of release~~[or bail]~~ established pursuant to KRS
6 Chapter 431 and the Kentucky Rules of Criminal Procedure.

7 ➔Section 42. The following KRS sections are repealed:

8 30A.060 Clerk to prepare bonds and to refuse insufficient surety -- Authorization for
9 preparation and acceptance of bail bonds by other public officers or employees.

10 136.410 Tax on bail bondsmen fees.

11 218A.135 Pretrial release of defendant charged with offense for which conviction may
12 result in presumptive probation.

13 431.021 Guaranteed arrest bond certificate of surety company to be accepted in lieu of
14 cash bail in traffic cases.

15 431.523 Bail for nonresidents charged with driving under the influence.

16 431.530 Deposit of bail security -- Payments into public advocate special account --
17 Return of deposit when innocent or charges dropped or dismissed.

18 431.5305 Jailer permitted to prepare or accept bail bond -- Fee -- Reporting.

19 431.531 Statement of collections to be filed -- Funds to be sent to State Treasury --
20 Certification of amounts and publication of annual audit by administrative office of
21 the courts.

22 431.532 Bail deposits by person other than defendant.

23 431.535 Cash, stocks, bonds, or real estate as security for bail.

24 431.540 Uniform schedule of amounts of bail in designated nonviolent Class D felonies,
25 misdemeanors, and violations.

26 431.545 Forfeiture of bail; Prosecution.

27 ➔Section 43. Sections 1 to 42 of this Act take effect January 1, 2023.