

1 AN ACT relating to public safety.

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

3 ➔Section 1. KRS 17.545 is amended to read as follows:

4 (1) No registrant, as defined in KRS 17.500, shall reside within one thousand (1,000)
5 feet of a high school, middle school, elementary school, preschool, publicly owned
6 or leased playground, or licensed day care facility. The measurement shall be taken
7 in a straight line from the nearest property line to the nearest property line of the
8 registrant's place of residence.

9 (2) **(a)** No registrant, as defined in KRS 17.500, nor any person residing outside of
10 Kentucky who would be required to register under KRS 17.510 if the person
11 resided in Kentucky, shall be on, **loiter within one thousand (1,000) feet of,**
12 **or work in or operate any mobile business within one thousand (1,000) feet**
13 **of** the clearly defined grounds of a high school, middle school, elementary
14 school, preschool, publicly owned or leased playground, ~~or~~ licensed day
15 care facility, **publicly owned or leased swimming pool, or splash pad as**
16 **defined in KRS 211.205,** except with the advance written permission of the
17 school principal, the school board, the local legislative body with jurisdiction
18 over the publicly owned or leased playground, **publicly owned or leased**
19 **swimming pool, or splash pad,** or the day care director that has been given
20 after full disclosure of the person's status as a registrant or sex offender from
21 another state and all registrant information as required in KRS 17.500.

22 **(b)** As used in this subsection: ~~[,]~~

23 **1.** "Local legislative body" means the chief governing body of a city,
24 county, urban-county government, consolidated local government,
25 charter county government, or unified local government that has
26 legislative powers;

27 **2. "Loiter" includes remaining in or about the clearly defined grounds**

1 of a location described in paragraph (a) of this subsection, while not
2 having any reason or relationship involving custody of or
3 responsibility for a minor or any other specific legitimate reason for
4 being there; and

5 3. "Mobile business" means any business that operates from a motor
6 vehicle or wheeled cart that can be operated, pushed, or pulled on a
7 sidewalk, street, or highway where food, goods, or services are
8 prepared, processed, or sold or dispensed to the public.

9 (c) The measurement in paragraph (a) of this subsection shall be taken in a
10 straight line from the nearest property line.

11 (3) For purposes of this section:

12 (a) The registrant shall have the duty to ascertain whether any property listed in
13 subsection (1) of this section is within one thousand (1,000) feet of the
14 registrant's residence; and

15 (b) If a new facility opens, the registrant shall be presumed to know and, within
16 ninety (90) days, shall comply with this section.

17 (4) (a) Except as provided in paragraph (b) of this subsection, no registrant who is
18 eighteen (18) years of age or older and has committed a criminal offense
19 against a victim who is a minor shall have the same residence as a minor.

20 (b) A registrant who is eighteen (18) years of age or older and has committed a
21 criminal offense against a victim who is a minor may have the same residence
22 as a minor if the registrant is the spouse, parent, grandparent, stepparent,
23 sibling, stepsibling, or court-appointed guardian of the minor, unless the
24 spouse, child, grandchild, stepchild, sibling, stepsibling, or ward was a victim
25 of the registrant.

26 (c) This subsection shall not operate retroactively and shall apply only to a
27 registrant that committed a criminal offense against a victim who is a minor

1 after July 14, 2018.

2 (5) Any person who violates subsection (1) or (4) of this section shall be guilty of:

3 (a) A Class A misdemeanor for a first offense; and

4 (b) A Class D felony for the second and each subsequent offense.

5 (6) Any registrant residing within one thousand (1,000) feet of a high school, middle
6 school, elementary school, preschool, publicly owned playground, or licensed day
7 care facility on July 12, 2006, shall move and comply with this section within
8 ninety (90) days of July 12, 2006, and thereafter, shall be subject to the penalties set
9 forth under subsection (5) of this section.

10 (7) The prohibition against a registrant:

11 (a) Residing within one thousand (1,000) feet of a publicly leased playground as
12 outlined in subsection (1) of this section; or

13 (b) Being on the grounds of a publicly leased playground as outlined in
14 subsection (2) of this section;

15 shall not operate retroactively.

16 (8) **The prohibition against a registrant loitering or working in or operating any**
17 **mobile business within one thousand (1,000) feet of a high school, middle school,**
18 **elementary school, preschool, publicly owned or leased playground, licensed day**
19 **care facility, publicly owned or leased swimming pool, or splash pad as defined in**
20 **KRS 211.205 shall not operate retroactively.**

21 **(9)** This section shall not apply to a youthful offender probated or paroled during his or
22 her minority or while enrolled in an elementary or secondary education program.

23 ➔Section 2. KRS 17.510 is amended to read as follows:

24 (1) The cabinet shall develop and implement a registration system for registrants which
25 includes creating a new computerized information file to be accessed through the
26 Law Information Network of Kentucky.

27 (2) A registrant shall, on or before the date of his or her release by the court, the parole

1 board, the cabinet, or any detention facility, register with the appropriate local
2 probation and parole office in the county in which he or she intends to reside. The
3 person in charge of the release shall facilitate the registration process.

4 (3) Any person required to register pursuant to subsection (2) of this section shall be
5 informed of the duty to register by the court at the time of sentencing if the court
6 grants probation or conditional discharge or does not impose a penalty of
7 incarceration, or if incarcerated, by the official in charge of the place of
8 confinement upon release. The court and the official shall require the person to read
9 and sign any form that may be required by the cabinet, stating that the duty of the
10 person to register has been explained to the person. The court and the official in
11 charge of the place of confinement shall require the releasee to complete the
12 acknowledgment form and the court or the official shall retain the original
13 completed form. The official shall then send the form to the *Sex Offender Registry*
14 *Section*~~Information Services Center~~, Department of Kentucky State Police,
15 Frankfort, Kentucky 40601.

16 (4) The court or the official shall order the person to register with the appropriate local
17 probation and parole office which shall obtain the person's fingerprints, palm prints,
18 DNA sample, photograph, and a copy of his or her motor vehicle operator's license
19 as well as any other government-issued identification cards, if any. Thereafter, the
20 registrant shall return to the appropriate local probation and parole office not less
21 than one (1) time every two (2) years in order for a new photograph to be obtained,
22 and the registrant shall pay the cost of updating the photo for registration purposes.
23 Any registrant who has not provided palm prints, a copy of his or her motor vehicle
24 operator's license, or a copy of any other government-issued identification cards, if
25 any, as of July 14, 2018, shall provide the information to the appropriate local
26 probation and parole office when the registrant appears for a new photograph to be
27 obtained. Any change to a registrant's motor vehicle operator's license number or

1 any other government-issued identification card after the registrant appears for a
2 new photograph shall be registered in accordance with subsection ~~(11)~~~~(10)~~ of this
3 section. Failure to comply with this requirement shall be punished as set forth in
4 subsection ~~(12)~~~~(11)~~ of this section.

5 (5) (a) The appropriate probation and parole office shall send the registration form
6 containing the registrant information, fingerprints, palm prints, photograph,
7 and a copy of his or her motor vehicle operator's license as well as any other
8 government-issued identification cards, if any, and any special conditions
9 imposed by the court or the Parole Board, to the Sex Offender Registry
10 Section~~Information Services Center~~, Department of Kentucky State Police,
11 Frankfort, Kentucky 40601. The appropriate probation and parole office shall
12 send the DNA sample to the Department of Kentucky State Police forensic
13 laboratory in accordance with administrative regulations promulgated by the
14 cabinet.

15 (b) The Sex Offender Registry Section~~Information Services Center~~, upon
16 request by a state or local law enforcement agency, shall make available to
17 that agency registrant information, including a person's fingerprints and
18 photograph, where available, as well as any special conditions imposed by the
19 court or the Parole Board.

20 (c) Any employee of the Justice and Public Safety Cabinet who disseminates, or
21 does not disseminate, registrant information in good-faith compliance with the
22 requirements of this subsection shall be immune from criminal and civil
23 liability for the dissemination or lack thereof.

24 (6) (a) Except as provided in paragraph (b) of this subsection, any person who has
25 been convicted in a court of any state or territory, a court of the United States,
26 or a similar conviction from a court of competent jurisdiction in any other
27 country, or a court martial of the United States Armed Forces of a sex crime

1 or criminal offense against a victim who is a minor and who has been notified
2 of the duty to register by that state, territory, or court, or who has been
3 committed as a sexually violent predator under the laws of another state, laws
4 of a territory, or federal laws, or has a similar conviction from a court of
5 competent jurisdiction in any other country, shall comply with the registration
6 requirement of this section, including the requirements of subsection (4) of
7 this section, and shall register with the appropriate local probation and parole
8 office in the county of residence within five (5) working days of relocation.
9 No additional notice of the duty to register shall be required of any official
10 charged with a duty of enforcing the laws of this Commonwealth.

11 (b) No person shall be required to register under this subsection for a juvenile
12 adjudication if such an adjudication in this Commonwealth would not create a
13 duty to register. This paragraph shall be retroactive.

14 (7) (a) Except as provided in paragraph (b) of this subsection, if a person is required
15 to register under federal law or the laws of another state or territory, or if the
16 person has been convicted of an offense in a court of the United States, in a
17 court martial of the United States Armed Forces, or under the laws of another
18 state or territory that would require registration if committed in this
19 Commonwealth, that person upon changing residence from the other state or
20 territory of the United States to the Commonwealth or upon entering the
21 Commonwealth for employment, to carry on a vocation, or as a student shall
22 comply with the registration requirement of this section, including the
23 requirements of subsection (4) of this section, and shall register within five (5)
24 working days with the appropriate local probation and parole office in the
25 county of residence, employment, vocation, or schooling. A person required
26 to register under federal law or the laws of another state or territory shall be
27 presumed to know of the duty to register in the Commonwealth. As used in

1 this subsection, "employment" or "carry on a vocation" includes employment
2 that is full-time or part-time for a period exceeding fourteen (14) days or for
3 an aggregate period of time exceeding thirty (30) days during any calendar
4 year, whether financially compensated, volunteered, or for the purpose of
5 government or educational benefit. As used in this subsection, "student"
6 means a person who is enrolled on a full-time or part-time basis, in any public
7 or private educational institution, including any secondary school, trade or
8 professional institution, or institution of higher education.

9 (b) No person shall be required to register under this subsection for a juvenile
10 adjudication if such an adjudication in this Commonwealth would not create a
11 duty to register. This paragraph shall be retroactive.

12 (8) The registration form shall be a written statement signed by the person which shall
13 include registrant information, including an up-to-date photograph of the registrant
14 for public dissemination.

15 (9) For purposes of KRS 17.500 to 17.580 and 17.991, a post office box number shall
16 not be considered an address.

17 (10) (a) If a registrant does not have an established and fixed residence of regular
18 return, he or she shall report in person no less than every thirty (30) days to
19 the local probation and parole office in the county in which he or she is
20 present and register the approximate area where he or she can be located.

21 (b) If the registrant changes his or her location to a new county, the person
22 shall notify his or her current local probation and parole office of the new
23 location on or before the date of the change of location.

24 (c) The registrant shall also report in person to the appropriate local probation
25 and parole office in the county of his or her new location no later than five
26 (5) working days after the date of the change of location.

27 (11) (a) If the residence address of any registrant changes, but the registrant remains in

1 the same county, the person shall register, on or before the date of the change
2 of address, with the appropriate local probation and parole office in the county
3 in which he or she resides.

4 (b) 1. If the registrant changes his or her residence to a new county, the person
5 shall notify his or her current local probation and parole office of the
6 new residence address on or before the date of the change of address.

7 2. The registrant shall also register with the appropriate local probation and
8 parole office in the county of his or her new residence no later than five
9 (5) working days after the date of the change of address.

10 (c) If the:

11 1. Motor vehicle operator's license number or any other government-issued
12 identification card number of any registrant changes; or

13 2. Registrant obtains for the first time a motor vehicle operator's license
14 number or any other government-issued identification card number;

15 the registrant shall register the change or addition no later than five (5)
16 working days after the date of the change or the date of the addition, with the
17 appropriate local probation and parole office in the county in which he or she
18 resides.

19 (d) 1. As soon as a probation and parole office learns of the person's new
20 address under paragraph (b)1. of this subsection, that probation and
21 parole office shall notify the appropriate local probation and parole
22 office in the county of the new address of the effective date of the new
23 address.

24 2. As soon as a probation and parole office learns of the person's new
25 address under paragraph (b)2. of this subsection, that office shall
26 forward this information as set forth under subsection (5) of this section.

27 (e) 1. A registrant shall register the following information with the appropriate

1 local probation and parole office no less than twenty-one (21) days
2 before traveling outside of the United States:

- 3 a. His or her passport number and country of issue;
4 b. The dates of departure, travel, and return; and
5 c. The foreign countries, colonies, territories, or possessions that the
6 registrant will visit.

7 2. The registrant shall register the following information with the
8 appropriate local probation and parole office no later than five (5)
9 working days after the date of his or her return from traveling outside of
10 the United States:

- 11 a. The date he or she departed, traveled, and returned; and
12 b. The foreign countries, colonies, territories, or possessions that the
13 registrant visited.

14 ~~(12)~~~~(11)~~ Any person required to register under this section who knowingly violates any
15 of the provisions of this section or prior law is guilty of a Class D felony for the
16 first offense and a Class C felony for each subsequent offense.

17 ~~(13)~~~~(12)~~ Any person required to register under this section or prior law who knowingly
18 provides false, misleading, or incomplete information is guilty of a Class D felony
19 for the first offense and a Class C felony for each subsequent offense.

20 ~~(14)~~~~(13)~~ (a) The cabinet shall verify the addresses, names, motor vehicle operator's
21 license numbers, and government-issued identification card numbers of
22 individuals required to register under this section. Verification shall occur at
23 least once every ninety (90) days for a person required to register under KRS
24 17.520(2), ~~and~~ at least once every calendar year for a person required to
25 register under KRS 17.520(3), **and at least once every thirty (30) days for a**
26 **person who does not have an established and fixed residence of regular**
27 **return.**

- 1 (b) If the cabinet determines that a person has:
- 2 1. Moved without providing his or her new address;~~{or}~~
- 3 2. **Failed to notify the local probation and parole office of his or her**
- 4 **presence in a new county without an established and fixed residence**
- 5 **of regular return; or**
- 6 **3.** A new name, motor vehicle operator's license number, or government-
- 7 issued identification card number that he or she has not provided;
- 8 to the appropriate local probation and parole office or offices as required
- 9 under subsection ~~(11)~~~~(10)~~(a), (b), and (c) of this section, the cabinet shall
- 10 notify the appropriate local probation and parole office of the new address,
- 11 name, motor vehicle operator's license number, or government-issued
- 12 identification card number used by the person. The office shall then forward
- 13 this information as set forth under subsection (5) of this section. The cabinet
- 14 shall also notify the appropriate court, Parole Board, and appropriate
- 15 Commonwealth's attorney, sheriff's office, probation and parole office,
- 16 corrections agency, and law enforcement agency responsible for the
- 17 investigation of the report of noncompliance.
- 18 (c) An agency that receives notice of the noncompliance from the cabinet under
- 19 paragraph (a) of this subsection:
- 20 1. Shall consider revocation of the parole, probation, postincarceration
- 21 supervision, or conditional discharge of any person released under its
- 22 authority; and
- 23 2. Shall notify the appropriate county or Commonwealth's Attorney for
- 24 prosecution.

25 **(15) The provisions of subsections (10) and (14) of this section relating to registrants**

26 **who do not have an established and fixed residence of regular return shall apply**

27 **to any person required to register on or after the effective date of this section.**

1 ➔Section 3. KRS 403.720 is amended to read as follows:

2 As used in KRS 403.715 to 403.785:

- 3 (1) "Domestic animal" means a dog, cat, or other animal that is domesticated and kept
4 as a household pet, but does not include animals normally raised for agricultural or
5 commercial purposes;
- 6 (2) "Domestic violence and abuse" means:
- 7 (a) Physical injury, serious physical injury, stalking, sexual abuse, strangulation,
8 assault, or the infliction of fear of imminent physical injury, serious physical
9 injury, sexual abuse, strangulation, or assault between family members or
10 members of an unmarried couple; or
- 11 (b) Any conduct prohibited by KRS 525.125, 525.130, 525.135, or 525.137, or
12 the infliction of fear of such imminent conduct, taken against a domestic
13 animal when used as a method of coercion, control, punishment, intimidation,
14 or revenge directed against a family member or member of an unmarried
15 couple who has a close bond of affection to the domestic animal;
- 16 (3) "Family member" means a spouse, including a former spouse, a grandparent, a
17 grandchild, a parent, *an adult sibling*, a child, a stepchild, or any other person
18 living in the same household as a child if the child is the alleged victim;
- 19 (4) "Foreign protective order" means any judgment, decree, or order of protection
20 which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 that was
21 issued on the basis of domestic violence and abuse;
- 22 (5) "Global positioning monitoring system" means a system that electronically
23 determines a person's location through a device worn by the person which does not
24 invade his or her bodily integrity and which transmits the person's latitude and
25 longitude data to a monitoring entity;
- 26 (6) "Member of an unmarried couple" means each member of an unmarried couple
27 which allegedly has a child in common, any children of that couple, or a member of

1 an unmarried couple who are living together or have formerly lived together;

2 (7) "Order of protection" means an emergency protective order or a domestic violence
3 order and includes a foreign protective order;

4 (8) "Strangulation" refers to conduct prohibited by KRS 508.170 and 508.175, or a
5 criminal attempt, conspiracy, facilitation, or solicitation to commit the crime of
6 strangulation; and

7 (9) "Substantial violation" means criminal conduct which involves actual or threatened
8 harm to the person, family, or property, including a domestic animal, of an
9 individual protected by an order of protection.

10 ➔Section 4. KRS 508.025 is amended to read as follows:

11 (1) A person is guilty of assault in the third degree when the actor:

12 (a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally
13 causes or attempts to cause physical injury to:

14 1. A state, county, city, or federal peace officer;

15 2. An employee of a detention facility, or state residential treatment facility
16 or state staff secure facility for residential treatment which provides for
17 the care, treatment, or detention of a juvenile charged with or
18 adjudicated delinquent because of a public offense or as a youthful
19 offender;

20 3. *A healthcare provider as defined in KRS 311.821, if the event occurs*
21 *while the healthcare provider is providing medical care in an*
22 *emergency room of a hospital;*

23 4. An employee of the Department for Community Based Services
24 employed as a social worker to provide direct client services, if the
25 event occurs while the worker is performing job-related duties;

26 5.~~4.~~ Paid or volunteer emergency medical services personnel certified or
27 licensed pursuant to KRS Chapter 311A, if the event occurs while

- 1 personnel are performing job-related duties;
- 2 ~~6.15.1~~ A paid or volunteer member of an organized fire department, if the
- 3 event occurs while the member is performing job-related duties;
- 4 ~~7.16.1~~ Paid or volunteer rescue squad personnel affiliated with the Division of
- 5 Emergency Management of the Department of Military Affairs or a
- 6 local disaster and emergency services organization pursuant to KRS
- 7 Chapter 39F, if the event occurs while personnel are performing job-
- 8 related duties;
- 9 ~~8.17.1~~ A probation and parole officer;
- 10 ~~9.18.1~~ A transportation officer appointed by a county fiscal court or legislative
- 11 body of a consolidated local government, urban-county government, or
- 12 charter government to transport inmates when the county jail or county
- 13 correctional facility is closed while the transportation officer is
- 14 performing job-related duties;
- 15 ~~10.19.1~~ A public or private elementary or secondary school or school
- 16 district classified or certified employee, school bus driver, or other
- 17 school employee acting in the course and scope of the employee's
- 18 employment; or
- 19 ~~11.10.1~~ A public or private elementary or secondary school or school
- 20 district volunteer acting in the course and scope of that person's
- 21 volunteer service for the school or school district;
- 22 (b) Being a person confined in a detention facility, or a juvenile in a state
- 23 residential treatment facility or state staff secure facility for residential
- 24 treatment which provides for the care, treatment, or detention of a juvenile
- 25 charged with or adjudicated delinquent because of a public offense or as a
- 26 youthful offender, inflicts physical injury upon or throws or causes feces, or
- 27 urine, or other bodily fluid to be thrown upon an employee of the facility; or

1 (c) Intentionally causes a person, whom the actor knows or reasonably should
2 know to be a peace officer discharging official duties, to come into contact
3 with saliva, vomit, mucus, blood, seminal fluid, urine, or feces without the
4 consent of the peace officer.

5 (2) (a) For a violation of subsection (1)(a) of this section, assault in the third degree
6 is a Class D felony, unless the offense occurs during a declared emergency as
7 defined by KRS 39A.020 arising from a natural or man-made disaster, within
8 the area covered by the emergency declaration, and within the area impacted
9 by the disaster, in which case it is a Class C felony.

10 (b) For a violation of subsection (1)(b) of this section, assault in the third degree
11 is a Class D felony.

12 (c) For violations of subsection (1)(c) of this section, assault in the third degree is
13 a Class B misdemeanor, unless the assault is with saliva, vomit, mucus, blood,
14 seminal fluid, urine, or feces from an adult who knows that he or she has a
15 serious communicable disease and competent medical or epidemiological
16 evidence demonstrates that the specific type of contact caused by the actor is
17 likely to cause transmission of the disease or condition, in which case it is a
18 Class A misdemeanor.

19 (d) As used in paragraph (c) of this subsection, "serious communicable disease"
20 means a non-airborne disease that is transmitted from person to person and
21 determined to have significant, long-term consequences on the physical health
22 or life activities of the person infected.

23 ➔Section 5. KRS 532.100 is amended to read as follows:

24 (1) As used in this section, "jail" means a "jail" or "regional jail" as defined in KRS
25 441.005.

26 (2) When an indeterminate term of imprisonment is imposed, the court shall commit
27 the defendant to the custody of the Department of Corrections for the term of his or

1 her sentence and until released in accordance with the law.

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

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

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

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

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

- 1 a. Beds are available in the jail;
- 2 b. State facilities are at capacity; and
- 3 c. Halfway house beds are being utilized at the contract level as of
- 4 July 15, 2000.
- 5 2. When an indeterminate sentence of two (2) years or more is imposed on
- 6 a felon convicted of a sex crime, as defined in KRS 17.500, or any
- 7 similar offense in another jurisdiction, the sentence shall be served in a
- 8 state institution.
- 9 3. Counties choosing not to comply with the provisions of this paragraph
- 10 shall be granted a waiver by the commissioner of the Department of
- 11 Corrections.
- 12 (d) Any jail that houses state inmates under this subsection shall offer programs
- 13 as recommended by the Jail Standards Commission. The Department of
- 14 Corrections shall adopt the recommendations of the Jail Standards
- 15 Commission and promulgate administrative regulations establishing required
- 16 programs for a jail that houses state inmates under this subsection. The
- 17 Department of Corrections shall approve programming offered by jails to state
- 18 inmates for sentencing credits in accordance with KRS 197.045.
- 19 (e) Before housing any female state inmate, a jail shall be certified pursuant to
- 20 KRS 197.020.
- 21 (f) 1. a. If a jail is at or over one hundred fifty percent (150%) capacity, the
- 22 Department of Corrections may direct the jail to transfer a
- 23 specified number of state prisoners to vacant beds at other
- 24 designated jails or state institutions. As used in this paragraph,
- 25 "capacity" means the capacity listed on the certificate of
- 26 occupancy issued each year to the jail by the Department of
- 27 Corrections.

- 1 b. The Department of Corrections shall choose which state prisoners
2 are eligible for transfer based on the security level of the vacant
3 bed at the receiving jail or state institution.
- 4 c. State prisoners who are approved for transfer to a Department of
5 Corrections facility for necessary medical treatment and care
6 pursuant to KRS 441.560 shall not be transferred to another jail.
- 7 d. State prisoners enrolled in a Department of Corrections approved
8 program pursuant to KRS 197.045 shall not be transferred.
- 9 e. State prisoners awaiting trial in the county they are being housed
10 shall not be transferred.
- 11 f. Jails that receive state prisoners pursuant to this subparagraph shall
12 be responsible for the transportation of those prisoners to the jail.
- 13 2. If the Department of Corrections directs the transfer of a state prisoner
14 pursuant to subparagraph 1. of this paragraph, the jailer has fourteen
15 (14) days to transfer the state prisoner. If the jailer refuses to release
16 custody of the state prisoner to the receiving jail within fourteen (14)
17 days, the department shall reduce the per diem for the jail for an amount
18 equal to the per diem of that prisoner for each day the jailer refuses to
19 comply with the direction.
- 20 3. If the Department of Corrections directs the transfer of a state prisoner
21 pursuant to subparagraph 1. of this paragraph, the jailer of the receiving
22 jail shall accept the transfer and transport the state prisoner in
23 accordance with subparagraph 1.f. of this paragraph. If, after receiving a
24 copy of the direction, the jailer refuses to accept and transport the state
25 prisoner, the Department of Corrections shall reduce the per diem for the
26 receiving jail for an amount equal to the per diem of that prisoner for
27 each day the jailer refuses to comply with the direction.

- 1 4. If a jail has a vacant bed and has a Class C or Class D felon who, based
2 on the Department of Corrections classification system, is eligible to be
3 housed in that vacant bed, the department may direct the jail to transfer
4 the state prisoner to that bed. If the jailer refuses to transfer the state
5 prisoner to the vacant bed, the Department of Corrections shall reduce
6 the per diem for the jail for an amount equal to the per diem of that
7 prisoner for each day the jailer refuses to comply with the direction.
- 8 5. The per diem reduced pursuant to subparagraph 2., 3., or 4. of this
9 paragraph shall be enforced by withholding the amount from the per
10 diem paid to the jail pursuant to KRS 431.215(2).
- 11 6. If a jail that is at or over one hundred fifty percent (150%) capacity
12 requests the transfer of a specified number of state prisoners, the
13 Department of Corrections may, if vacant beds are available at other
14 jails, direct the transfer in accordance with subparagraph 1. of this
15 paragraph.
- 16 (g) If a jail has vacant beds in an area of the jail usually reserved for state
17 prisoners, the jail may house county prisoners in that area.
- 18 (6) The jailer of a county in which a Class D felon or a Class C felon is
19 incarcerated may request the commissioner of the Department of Corrections
20 to incarcerate the felon in a state corrections institution if the jailer has
21 reasons to believe that the felon is an escape risk, a danger to himself or
22 herself or other inmates, an extreme security risk, or needs protective custody
23 beyond that which can be provided in a jail. The commissioner of the
24 Department of Corrections shall evaluate the request and transfer the inmate if
25 he or she deems it necessary. If the commissioner refuses to accept the felon
26 inmate, and the Circuit Judge of the county that has jurisdiction of the offense
27 charged is of the opinion that the felon cannot be safely kept in a jail, the

1 Circuit Judge, with the consent of the Governor, may order the felon
2 transferred to the custody of the Department of Corrections.

3 (7) (a) Class D felons and Class C felons serving their time in a jail shall be
4 considered state prisoners, and, except as provided in subsection (5)(f) of this
5 section, the Department of Corrections shall pay the jail in which the prisoner
6 is incarcerated a per diem amount determined according to KRS 431.215(2).
7 For other state prisoners and parole violator prisoners, the per diem payments
8 shall also begin on the date prescribed in KRS 431.215(2), except as provided
9 in subsection (5)(f) of this section.

10 (b) 1. The per diem amount paid to the jail shall be increased by two dollars
11 (\$2) per day of program attendance for those inmates enrolled in and
12 attending evidence-based programs approved by the department and that
13 do not require instructors to have completed any postsecondary
14 education.

15 2. The per diem amount paid to the jail shall be increased by ten dollars
16 (\$10) per day of program attendance for those inmates enrolled in and
17 attending evidence-based programs approved by the department and that
18 require instructors to have completed particular postsecondary courses.

19 (c) Any amount beyond the base per diem paid under paragraph (a) of this
20 subsection that is paid under a contract to the jail for an inmate's attendance at
21 an evidence-based program shall be credited toward the ten dollars (\$10)
22 increase in per diem required under paragraph (b) of this subsection.

23 (8) State prisoners, excluding the Class D felons and Class C felons qualifying to
24 serve time in jails, shall be transferred to the state institution within forty-five
25 (45) days of final sentencing.

26 (9) (a) Class D felons eligible for placement in a jail may be permitted by the warden
27 or jailer to participate in any approved community work program or other

1 form of work release with the approval of the commissioner of the
2 Department of Corrections.

3 (b) The authority to release an inmate to work under this subsection may be
4 exercised at any time during the inmate's sentence, including the period when
5 the court has concurrent authority to permit work release pursuant to KRS
6 439.265.

7 (c) The warden or jailer may require an inmate participating in the program to
8 pay a fee to reimburse the warden or jailer for the cost of operating the
9 community work program or any other work release program. The fee shall
10 not exceed the lesser of fifty-five dollars (\$55) per week or twenty percent
11 (20%) of the prisoner's weekly net pay earned from the community work
12 program or work release participation. In addition, the inmate may be required
13 to pay for any drug testing performed on the inmate as a requirement of the
14 community work program or work release participation.

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

- 16 1. Is not eligible for work release pursuant to KRS 197.140;
- 17 2. Has a maximum or close security classification as defined by
18 administrative regulations promulgated by the Department of
19 Corrections;
- 20 3. Is subject to the provisions of KRS 532.043; or
- 21 4. Is in a reentry center as defined in KRS 441.005.

22 ➔Section 6. Section 2 of this Act takes effect January 1, 2024.