

1 AN ACT relating to local jails.

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

3 ➔Section 1. KRS 532.100 is amended to read as follows:

- 4 (1) As used in this section, "jail" means a "jail" or "regional jail" as defined in KRS
5 441.005.
- 6 (2) When an indeterminate term of imprisonment is imposed, the court shall commit
7 the defendant to the custody of the Department of Corrections for the term of his or
8 her sentence and until released in accordance with the law.
- 9 (3) When a definite term of imprisonment is imposed, the court shall commit the
10 defendant to a jail for the term of his or her sentence and until released in
11 accordance with the law.
- 12 (4) When a sentence of death is imposed, the court shall commit the defendant to the
13 custody of the Department of Corrections with directions that the sentence be
14 carried out according to law.
- 15 (5) (a) The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is
16 sentenced to an indeterminate term of imprisonment of five (5) years or less,
17 he or she ~~may~~shall serve that term in a jail in a county in which the fiscal
18 court has agreed to house state prisoners; except that, when an indeterminate
19 sentence of two (2) years or more is imposed on a Class D felon convicted of
20 a sexual offense enumerated in KRS 197.410(1), or a crime under KRS
21 17.510(12) or (13), the sentence shall be served in a state institution. Counties
22 choosing not to comply with the provisions of this paragraph shall be granted
23 a waiver by the commissioner of the Department of Corrections.
- 24 (b) The provisions of KRS 500.080(5) notwithstanding, a Class D felon who
25 received a sentence of more than five (5) years for nonviolent, nonsexual
26 offenses, but who currently has less than five (5) years remaining to be
27 served, may serve the remainder of his or her term in a jail in a county in

1 which the fiscal court has agreed to house state prisoners.

- 2 (c) 1. The provisions of KRS 500.080(5) notwithstanding, and except as
3 provided in subparagraph 2. of this paragraph, a Class C or D felon with
4 a sentence of more than five (5) years who is classified by the
5 Department of Corrections as community custody ~~may~~shall serve that
6 term in a jail in a county in which the fiscal court has agreed to house
7 state prisoners if:
8 a. Beds are available in the jail;
9 b. State facilities are at capacity; and
10 c. Halfway house beds are being utilized at the contract level as of
11 July 15, 2000.
- 12 2. When an indeterminate sentence of two (2) years or more is imposed on
13 a felon convicted of a sex crime, as defined in KRS 17.500, or any
14 similar offense in another jurisdiction, the sentence shall be served in a
15 state institution.
- 16 3. Counties choosing not to comply with the provisions of this paragraph
17 shall be granted a waiver by the commissioner of the Department of
18 Corrections.
- 19 (d) Any jail that houses state inmates under this subsection shall offer programs
20 as recommended by the Jail Standards Commission. The Department of
21 Corrections shall adopt the recommendations of the Jail Standards
22 Commission and promulgate administrative regulations establishing required
23 programs for a jail that houses state inmates under this subsection. The
24 Department of Corrections shall approve programming offered by jails to state
25 inmates for sentencing credits in accordance with KRS 197.045.
- 26 (e) Before housing any female state inmate, a jail shall be certified pursuant to
27 KRS 197.020.

- 1 (f) 1. a. If a jail is at or over one hundred fifty percent (150%) capacity, the
2 Department of Corrections may direct the jail to transfer a
3 specified number of state prisoners to vacant beds at other
4 designated jails or state institutions. As used in this paragraph,
5 "capacity" means the capacity listed on the certificate of
6 occupancy issued each year to the jail by the Department of
7 Corrections.
- 8 b. The Department of Corrections shall choose which state prisoners
9 are eligible for transfer based on the security level of the vacant
10 bed at the receiving jail or state institution.
- 11 c. State prisoners who are approved for transfer to a Department of
12 Corrections facility for necessary medical treatment and care
13 pursuant to KRS 441.560 shall not be transferred to another jail.
- 14 d. State prisoners enrolled in a Department of Corrections approved
15 program pursuant to KRS 197.045 shall not be transferred.
- 16 e. State prisoners awaiting trial in the county they are being housed
17 shall not be transferred.
- 18 f. Jails that receive state prisoners pursuant to this subparagraph shall
19 be responsible for the transportation of those prisoners to the jail.
- 20 2. If the Department of Corrections directs the transfer of a state prisoner
21 pursuant to subparagraph 1. of this paragraph, the jailer has fourteen
22 (14) days to transfer the state prisoner. If the jailer refuses to release
23 custody of the state prisoner to the receiving jail within fourteen (14)
24 days, the department shall reduce the per diem for the jail for an amount
25 equal to the per diem of that prisoner for each day the jailer refuses to
26 comply with the direction.
- 27 3. If the Department of Corrections directs the transfer of a state prisoner

1 pursuant to subparagraph 1. of this paragraph, the jailer of the receiving
2 jail shall accept the transfer and transport the state prisoner in
3 accordance with subparagraph 1.f. of this paragraph. If, after receiving a
4 copy of the direction, the jailer refuses to accept and transport the state
5 prisoner, the Department of Corrections shall reduce the per diem for the
6 receiving jail for an amount equal to the per diem of that prisoner for
7 each day the jailer refuses to comply with the direction.

8 4. If a jail has a vacant bed and has a Class C or Class D felon who, based
9 on the Department of Corrections classification system, is eligible to be
10 housed in that vacant bed, the department may direct the jail to transfer
11 the state prisoner to that bed. If the jailer refuses to transfer the state
12 prisoner to the vacant bed, the Department of Corrections shall reduce
13 the per diem for the jail for an amount equal to the per diem of that
14 prisoner for each day the jailer refuses to comply with the direction.

15 5. The per diem reduced pursuant to subparagraph 2., 3., or 4. of this
16 paragraph shall be enforced by withholding the amount from the per
17 diem paid to the jail pursuant to KRS 431.215(2).

18 6. If a jail that is at or over one hundred fifty percent (150%) capacity
19 requests the transfer of a specified number of state prisoners, the
20 Department of Corrections may, if vacant beds are available at other
21 jails, direct the transfer in accordance with subparagraph 1. of this
22 paragraph.

23 (g) If a jail has vacant beds in an area of the jail usually reserved for state
24 prisoners, the jail may house county prisoners in that area.

25 (6) The jailer of a county in which a Class D felon or a Class C felon is incarcerated
26 may request the commissioner of the Department of Corrections to incarcerate the
27 felon in a state corrections institution if the jailer has reasons to believe that the

1 felon is an escape risk, a danger to himself or herself or other inmates, an extreme
2 security risk, or needs protective custody beyond that which can be provided in a
3 jail. The commissioner of the Department of Corrections shall evaluate the request
4 and transfer the inmate if he or she deems it necessary. If the commissioner refuses
5 to accept the felon inmate, and the Circuit Judge of the county that has jurisdiction
6 of the offense charged is of the opinion that the felon cannot be safely kept in a jail,
7 the Circuit Judge, with the consent of the Governor, may order the felon transferred
8 to the custody of the Department of Corrections.

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

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

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

25 (c) Any amount beyond the base per diem paid under paragraph (a) of this
26 subsection that is paid under a contract to the jail for an inmate's attendance at
27 an evidence-based program shall be credited toward the ten dollars (\$10)

1 increase in per diem required under paragraph (b) of this subsection.

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

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

9 (b) The authority to release an inmate to work under this subsection may be
10 exercised at any time during the inmate's sentence, including the period when
11 the court has concurrent authority to permit work release pursuant to KRS
12 439.265.

13 (c) The warden or jailer may require an inmate participating in the program to
14 pay a fee to reimburse the warden or jailer for the cost of operating the
15 community work program or any other work release program. The fee shall
16 not exceed the lesser of fifty-five dollars (\$55) per week or twenty percent
17 (20%) of the prisoner's weekly net pay earned from the community work
18 program or work release participation. In addition, the inmate may be required
19 to pay for any drug testing performed on the inmate as a requirement of the
20 community work program or work release participation.

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

- 22 1. Is not eligible for work release pursuant to KRS 197.140;
- 23 2. Has a maximum or close security classification as defined by
24 administrative regulations promulgated by the Department of
25 Corrections;
- 26 3. Is subject to the provisions of KRS 532.043; or
- 27 4. Is in a reentry center as defined in KRS 441.005.