

1 AN ACT relating to conditions of supervision.

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

3 ➔Section 1. KRS 439.340 is amended to read as follows:

- 4 (1) The board may release on parole persons confined in any adult state penal or
5 correctional institution of Kentucky or sentenced felons incarcerated in county jails
6 eligible for parole. All paroles shall issue upon order of the board duly adopted. As
7 soon as practicable after his or her admission to an adult state penal or correctional
8 institution or county jail if he or she is a sentenced felon, and at such intervals
9 thereafter as it may determine, the Department of Corrections shall obtain all
10 pertinent information regarding each prisoner, except those not eligible for parole.
11 The information shall include the results of his or her most recent risk and needs
12 assessment, his or her criminal record, his or her conduct, employment, and the
13 reports of physical and mental examinations that have been made. The Department
14 of Corrections shall furnish the circumstances of his or her offense, the results of
15 his or her most recent risk and needs assessment, and his or her previous social
16 history to the board. The Department of Corrections shall prepare a report on any
17 information it obtains. It shall be the duty of the Department of Corrections to
18 supplement this report with any material the board may request and submit the
19 report to the board.
- 20 (2) Before granting the parole of any prisoner, the board shall consider the pertinent
21 information regarding the prisoner, including the results of his or her most recent
22 risk and needs assessment, and shall have him or her appear before it for interview
23 and hearing. The board in its discretion may hold interviews and hearings for
24 prisoners convicted of Class C felonies not included within the definition of
25 "violent offender" in KRS 439.3401 and Class D felonies not included within the
26 definition of "sex crime" in KRS 17.500. The board in its discretion may request the
27 parole board of another state confining prisoners pursuant to KRS 196.610 to

1 interview eligible prisoners and make a parole recommendation to the board. A
2 parole shall be ordered only for the best interest of society and not as an award of
3 clemency, and it shall not be considered a reduction of sentence or pardon. A
4 prisoner shall be placed on parole only when arrangements have been made for his
5 or her proper employment or for his or her maintenance and care, and when the
6 board believes he or she is able and willing to fulfill the obligations of a law abiding
7 citizen. Notwithstanding any statute to the contrary, including KRS 440.330, when
8 a prisoner is otherwise eligible for parole and the board has recommended parole
9 for that prisoner for the reasons set forth in this subsection, the board may grant
10 parole to any prisoner wanted as a fugitive by any other jurisdiction, and the
11 prisoner shall be released to the detainer from that jurisdiction. Such parole shall
12 not constitute a relinquishment of jurisdiction over the prisoner, and the board in all
13 cases expressly reserves the right to return the prisoner to confinement in a
14 correctional institution of the Commonwealth if the prisoner violates the terms of
15 his or her parole.

16 (3) (a) A nonviolent offender convicted of a Class D felony with an aggregate
17 sentence of one (1) to five (5) years who is confined to a state penal institution
18 or county jail shall have his or her case reviewed by the Parole Board after
19 serving fifteen percent (15%) or two (2) months of the original sentence,
20 whichever is longer.

21 (b) Except as provided in this section, the board shall adopt administrative
22 regulations with respect to the eligibility of prisoners for parole, the conduct
23 of parole and parole revocation hearings and all other matters that come
24 before it, or conditions to be imposed upon parolees. Regulations governing
25 the eligibility of prisoners for parole shall be in accordance with
26 professionally accepted ideas of correction and reform and may utilize in part
27 objective, performance-based criteria and risk and needs assessment

1 information; however, nothing herein contained shall preclude the board from
2 utilizing its present regulations in conjunction with other factors involved that
3 would relate to the inmate's needs and the safety of the public.

4 (4) The board shall ensure~~[insure]~~ that all sentenced felons who have longer than
5 ninety (90) days to serve in state penal institutions, halfway houses, reentry centers,
6 and county jails are considered for parole not less than sixty (60) days prior to their
7 parole eligibility date, and the Department of Corrections shall provide the
8 necessary assistance and information to the board in order for it to conduct timely
9 parole reviews.

10 (5) In addition to or in conjunction with each hearing conducted under subsection (2) of
11 this section for any prisoner convicted of a Class A, B, or C felony or a Class D
12 felony included within the definition of "sex crime" in KRS 17.500 and prior to the
13 granting of a parole to any such prisoner, the Parole Board shall conduct a hearing
14 of which the following persons shall receive not less than forty-five (45) nor more
15 than ninety (90) days' notice: the Commonwealth's attorney who shall notify the
16 sheriff of every county and the chief of police of every city and county in which the
17 prisoner committed any Class A, B, or C felony or a Class D felony included within
18 the definition of "sex crime" in KRS 17.500 for which he or she is imprisoned, and
19 all identified victims of the crimes or the next of kin of any victim who is deceased.
20 Notice to the Commonwealth's attorney shall be by mail, fax, or electronic means at
21 the discretion of the board, and shall be in a manner that ensures receipt at the
22 Commonwealth's~~[Commonwealth]~~ attorney's business office. Notices received by
23 chiefs of police and sheriffs shall be posted in a conspicuous location where police
24 employed by the department may see it. Notices shall be posted in a manner and at
25 a time that will allow officers to make comment thereon to the Parole Board. Notice
26 to victims or their next of kin shall be made, for prisoners incarcerated prior to July
27 15, 1986, by mail, fax, or electronic means at the discretion of the board, and shall

1 be in a manner that ensures receipt by the Commonwealth's attorney, who shall
2 forward the notice promptly to the victims or their next of kin at their last known
3 address. For prisoners incarcerated on or after July 15, 1986, notice to the victims
4 or their next of kin shall be by mail from the Parole Board to their last known
5 address as provided by the Commonwealth's attorney to the Parole Board at the
6 time of incarceration of the prisoner. For prisoners incarcerated prior to April 1,
7 2021, for a Class D felony included within the definition of "sex crime" in KRS
8 17.500, notice to the victims or their next of kin shall be in a manner that ensures
9 receipt by the Commonwealth's attorney, who shall forward the notice promptly to
10 the victims or their next of kin at their last known address. For prisoners
11 incarcerated on or after April 1, 2021, for a Class D felony included within the
12 definition of "sex crime" in KRS 17.500, notice to the victims or their next of kin
13 shall be by mail from the Parole Board to their last known address as provided by
14 the Commonwealth's attorney to the Parole Board at the time of incarceration of the
15 prisoner. Notice to the victim or the next of kin of subsequent considerations for
16 parole after the initial consideration shall not be sent if the victim or the next of kin
17 gives notice to the board that he or she no longer wants to receive such notices. The
18 notice shall include the time, date, and place of the hearing provided for in this
19 subsection, and the name and address of a person to write if the recipient of the
20 notice desires to attend the hearing or to submit written comments.

21 (6) Persons receiving notice as provided for in subsection (5) of this section may
22 submit comments, in person or in writing, to the board upon all issues relating to
23 the parole of the prisoner. The board shall read and consider all comments prior to
24 making its parole decision, if they are received by the board not less than seven (7)
25 days before the date for the hearing. The board shall retain all comments in the
26 prisoner's permanent Parole Board file, and shall consider them in conjunction with
27 any subsequent parole decisions affecting the prisoner. In addition to officers listed

1 in subsection (5) of this section, the crime victims or the next of kin of any victim
2 who is deceased or who is disabled and cannot attend the hearing or the parent or
3 legal guardian of any victim who is a minor may attend the hearing provided for in
4 subsection (5) of this section and present oral and written comments upon all issues
5 relating to the parole of the prisoner, if they have advised the board, in writing
6 received by the board not less than seven (7) days prior to the date set for the
7 hearing, of their intention to attend the hearing. The board shall receive and
8 consider all comments, shall make a record of them which it shall retain in the
9 prisoner's permanent Parole Board file, and shall consider them in conjunction with
10 any subsequent parole decision affecting the prisoner. Persons appearing before the
11 Parole Board pursuant to this subsection may elect to make their presentations
12 outside of the presence of the prisoner.

13 (7) Victims of Class D felonies not included within the definition of "sex crime" in
14 KRS 17.500 may submit comments in person or in writing to the board upon all
15 issues relating to the parole of a prisoner.

16 (8) Any hearing provided for in subsections (5), (6), and (7) of this section shall be
17 open to the public unless the persons having a right to appear before the board as
18 specified in those subsections request closure of hearing for reasons of personal
19 safety, in which event the hearing shall be closed. The time, date, and location of
20 closed hearings shall not be disclosed to the public.

21 (9) Except as specifically set forth in this section, nothing in this section shall be
22 deemed to expand or abridge any existing rights of persons to contact and
23 communicate with the Parole Board or any of its members, agents, or employees.

24 (10) The unintentional failure by the Parole Board, sheriff, chief of police, or any of its
25 members, agents, or employees or by a Commonwealth's attorney or any of his or
26 her agents or employees to comply with any of the provisions of subsections (5),
27 (6), and (8) of this section shall not affect the validity of any parole decision or give

1 rise to any right or cause of action by the crime victim, the prisoner, or any other
2 person.

3 (11) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be
4 granted parole unless he or she has successfully completed the Sexual Offender
5 Treatment Program.

6 (12) Any prisoner who is granted parole after completion of the Sexual Offender
7 Treatment Program shall be required, as a condition of his or her parole, to
8 participate in regular treatment in a mental health program approved or operated by
9 the Department of Corrections.

10 (13) When the board grants parole contingent upon completion of a program, the
11 commissioner, or his or her designee, shall determine the most appropriate
12 placement in a program operated by the department or a residential or
13 nonresidential program within the community approved by the department. If the
14 department releases a parolee to a nonresidential program, the department shall
15 release the parolee only if he or she will have appropriate community housing
16 pursuant to KRS 439.3408.

17 (14) If the Parole Board does not grant parole to a prisoner, the maximum deferment for
18 a prisoner convicted of a non-violent, non-sexual Class C or Class D felony shall be
19 twenty-four (24) months. For all other prisoners who are eligible for parole:

20 (a) No parole deferment greater than five (5) years shall be ordered unless
21 approved by a majority vote of the full board; and

22 (b) No deferment shall exceed ten (10) years, except for life sentences.

23 (15) When an order for parole is issued, it shall recite the conditions thereof, **which may**
24 **include requiring the person to participate in a specific program designed to**
25 **reduce violence.**

26 ➔Section 2. KRS 533.030 is amended to read as follows:

27 (1) The conditions of probation and conditional discharge shall be such as the court, in

1 its discretion, deems reasonably necessary to ensure that the defendant will lead a
2 law-abiding life or to assist him or her to do so. The court shall provide as an
3 explicit condition of every sentence to probation or conditional discharge that the
4 defendant not commit another offense during the period for which the sentence
5 remains subject to revocation.

- 6 (2) When imposing a sentence of probation or conditional discharge, the court may, in
7 addition to any other reasonable condition, require that the defendant:
- 8 (a) Avoid injurious or vicious habits;
 - 9 (b) Avoid persons or places of disreputable or harmful character;
 - 10 (c) Work faithfully at suitable employment as far as possible;
 - 11 (d) Undergo available medical or psychiatric treatment and remain in a specific
12 institution as required for that purpose;
 - 13 (e) Post a bond, without surety, conditioned on performance of any of the
14 prescribed conditions;
 - 15 (f) Support his or her dependents and meet other family responsibilities;
 - 16 (g) Pay the cost of the proceeding as set by the court;
 - 17 (h) Remain within a specified area;
 - 18 (i) Report to the probation officer as directed;
 - 19 (j) Permit the probation officer to visit him or her at his or her home or
20 elsewhere;
 - 21 (k) Answer all reasonable inquiries by the probation officer and promptly notify
22 the probation officer of any change in address or employment;
 - 23 (l) Submit to periodic testing for the use of controlled substances or alcohol, if
24 the defendant's record indicates a controlled substance or alcohol problem,
25 and to pay a reasonable fee, as determined by the court, which fee shall not
26 exceed the actual cost of the test and analysis and shall be paid directly to the
27 agency or agencies responsible for testing and analysis as compensation for

1 the cost of the testing and analysis, as specified by written order of the court,
2 performed under this subsection. For good cause shown, the testing fee may
3 be waived by the court;

4 (m) Use an alcohol monitoring device, as defined in KRS 431.068. All costs
5 associated with the device, including administrative and operating costs, shall
6 be paid by the defendant. If the court determines that the defendant is
7 indigent, and a person, county, or other organization has not agreed to pay the
8 costs for the defendant in an attempt to reduce incarceration expenses and
9 increase public safety, the court shall consider other conditions of probation or
10 conditional discharge provided for in this section;~~[-or]~~

11 (n) During all or part of the period of probation or conditional discharge,
12 participate in a global positioning monitoring system program operated by a
13 county pursuant to KRS 67.372 and 67.374 under the same terms and
14 conditions as provided in KRS 431.517; or

15 (o) Participate in a specific program designed to reduce violence.

16 (3) When imposing a sentence of probation or conditional discharge in a case where a
17 victim of a crime has suffered monetary damage as a result of the crime due to his
18 or her property having been converted, stolen, or unlawfully obtained, or its value
19 substantially decreased as a result of the crime, or where the victim suffered actual
20 medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of
21 the crime, or where the victim incurred expenses in relocating for the purpose of the
22 victim's safety or the safety of a member of the victim's household, or if as a direct
23 result of the crime the victim incurred medical expenses that were paid by the
24 Cabinet for Health and Family Services, the Crime Victims Compensation Board,
25 or any other governmental entity, the court shall order the defendant to make
26 restitution in addition to any other penalty provided for the commission of the
27 offense. Payment of restitution to the victim shall have priority over payment of

1 restitution to any government agency. Restitution shall be ordered in the full
2 amount of the damages, unless the damages exceed one hundred thousand dollars
3 (\$100,000) or twice the amount of the gain from the commission of the offense,
4 whichever is greater, in which case the higher of these two (2) amounts shall be
5 awarded. The court may, in lieu of ordering monetary restitution, order the
6 defendant to make restitution by working for or on behalf of the victim. The court
7 shall determine the number of hours of work necessary by applying the then-
8 prevailing federal minimum wage to the total amount of monetary damage caused
9 by or incidental to the commission of the crime. The court may, with the consent of
10 the agency, order the defendant to work as specified in KRS 533.070. Any work
11 ordered pursuant to this section shall not be deemed employment for any purpose,
12 nor shall the person performing the work be deemed an employee for any purpose.
13 Where there is more than one (1) defendant or more than one (1) victim, restitution
14 may be apportioned. Restitution shall be subject to the following additional terms
15 and conditions:

16 (a) Where property which is unlawfully in the possession of the defendant is in
17 substantially undamaged condition from its condition at the time of the taking,
18 return of the property shall be ordered in lieu of monetary restitution;

19 (b) The circuit clerk shall assess an additional fee of five percent (5%) to defray
20 the administrative costs of collection of payments or property. This fee shall
21 be paid by the defendant and shall inure to a trust and agency account which
22 shall not lapse and which shall be used to hire additional deputy clerks and
23 office personnel or increase deputy clerk or office personnel salaries, or
24 combination thereof;

25 (c) When a defendant fails to make restitution ordered to be paid through the
26 circuit clerk or a court-authorized program run by the county attorney or the
27 Commonwealth's attorney, the circuit clerk or court-authorized program shall

1 notify the court; and

2 (d) An order of restitution shall not preclude the owner of property or the victim
3 who suffered personal physical or mental injury or out-of-pocket loss of
4 earnings or support or other damages from proceeding in a civil action to
5 recover damages from the defendant. A civil verdict shall be reduced by the
6 amount paid under the criminal restitution order.

7 (4) When requiring fees for controlled substances or alcohol tests, or other fees and
8 payments authorized by this section or other statute, except restitution, to be paid by
9 the defendant, the court shall not order the payments to be paid through the circuit
10 clerk.

11 (5) When a defendant is sentenced to probation or conditional discharge, he or she shall
12 be given a written statement explicitly setting forth the conditions under which he
13 or she is being released.

14 (6) When imposing a sentence of probation or conditional discharge, the court, in
15 addition to conditions imposed under this section, may require as a condition of the
16 sentence that the defendant submit to a period of imprisonment in the county jail or
17 to a period of home incarceration at whatever time or intervals, consecutive or
18 nonconsecutive, the court shall determine. The time actually spent in confinement
19 or home incarceration pursuant to this provision shall not exceed twelve (12)
20 months or the maximum term of imprisonment assessed pursuant to KRS Chapter
21 532, whichever is the shorter. Time spent in confinement or home incarceration
22 under this subsection shall be credited against the maximum term of imprisonment
23 assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional
24 discharge is revoked and the defendant is sentenced to imprisonment. Any
25 prohibitions against probation, shock probation, or conditional discharge under
26 KRS 533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor
27 or Class D felony and sentenced to a period of confinement or home incarceration

1 under this section.