

1 AN ACT relating to pretrial release.

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, 508.030 excluding minor injury or no visible injury, 508.040(2)(a)***
 8 ***and (b), 508.050, 508.060, 508.075, 508.078, 508.100, 508.110, 508.120,***
 9 ***508.140, 508.150, 509.020, 509.040, 510.120, 510.130, 511.020, 513.030,***
 10 ***513.040, 515.020, 515.030, 515.040, 518.090, 525.020, 527.205, 529.100, or***
 11 ***529.110;***

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

14 ***(c) "Standard conditions" means:***

15 ***1. The defendant shall not commit a local, state, or federal offense;***

16 ***2. The defendant shall appear for all required court appearances; and***

17 ***3. The defendant shall avoid all contact with any alleged victim and any***
 18 ***potential witness who may testify concerning the charge, unless or***
 19 ***until the court removes this condition;***

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

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

27 (2) ***(a) A verified and eligible defendant shall not be detained on money bail, except***

1 as provided in paragraph (b) of this subsection.

2 (b) A high-risk defendant who has not been charged with a violent or sexual
3 offense, and who meets the money bail requirements of subsection (3) of
4 Section 2 of this Act, may be detained on money bail.

5 (3) (a) Pretrial services shall use a validated pretrial risk assessment tool to
6 determine whether a verified and eligible defendant presents a low,
7 moderate, or high risk of failing to appear for required court appearances
8 or committing a criminal offense while on pretrial release pending
9 adjudication.

10 (b) The validated pretrial risk assessment tool shall weigh a defendant's risk of
11 failing~~[When a court considers pretrial release and bail for an arrested~~
12 ~~defendant, the court shall consider whether the defendant constitutes a flight~~
13 ~~risk, is unlikely] to appear for required court appearances~~[trial], or being~~~~[or~~
14 ~~is likely to be] a danger to the public if released, by considering factors that~~
15 may include but are not limited to prior failure to appear for scheduled
16 court appearances, prior criminal history, types of offenses, and any other
17 factors determined appropriate or necessary by pretrial services~~[. In making~~
18 ~~this determination, the court shall consider the pretrial risk assessment for a~~
19 ~~verified and eligible defendant along with the factors set forth in KRS~~
20 ~~431.525].~~~~

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

25 ~~(4)~~~~(3)~~ (a) If a verified and eligible defendant:

26 1. Poses a low or moderate risk as determined under subsection (3) of
27 this section;

- 1 2. Has been charged with a violation, misdemeanor, or Class D felony;
- 2 3. Has not been charged with a violent or sexual offense;
- 3 4. Has not been charged with an enhanced scrutiny offense; and
- 4 5. Has not been charged with a violation of KRS 17.510, 17.545, 17.546,
- 5 17.549, 119.255, 189A.010(5)(b) to (d), 209.990, 235.240 for a second
- 6 or subsequent offense, 403.763, 456.120, 456.180, 507.050, 508.030
- 7 with minor or no visible injury, 508.070, 508.080, 508.120, 508.155,
- 8 509.030, 509.080, 511.085, 514.080, 520.090, 524.040, 525.120,
- 9 525.125, 525.130, 525.135, 525.205, 527.020, 529.020, 529.040(2),
- 10 529.070, 529.080, 529.090, 530.010, 530.060, 531.020, 531.030,
- 11 531.040, 531.050, 531.060, 531.090, 531.100, 531.335, 531.340,
- 12 531.350, 531.360, or 531.370;
- 13 the defendant shall be released on his or her own recognizance by a pretrial
- 14 officer, unless the defendant has been convicted of a violent or sexual
- 15 offense within five (5) years prior to his or her current offense, in which
- 16 case the pretrial officer, upon approval of his or her pretrial supervisor,
- 17 may refer the defendant to the court.
- 18 (b) If a pretrial officer refers a defendant to the court pursuant to paragraph
- 19 (a) of this subsection, the court may order the defendant released on his or
- 20 her own recognizance subject to standard conditions, may impose additional
- 21 nonfinancial conditions as outlined in KRS 431.064 and 431.518 and
- 22 Section 5 of this Act, or may, either on its own or by motion of the
- 23 prosecutor, detain the defendant until a detention hearing is held pursuant
- 24 to Section 2 of this Act.
- 25 (5) (a) When the court is making a bail determination for ~~if~~ a verified and eligible
- 26 defendant, if the defendant:
- 27 1. Poses a low risk as determined under subsection (3) of this section;

1 2. Has been charged with a Class A, B, or C felony; and

2 3. Has not been charged with a violent or sexual offense or with an
 3 enhanced scrutiny offense;~~[of flight, is likely to appear for trial, and is~~
 4 ~~not likely to be a danger to others,]~~

5 the court shall order the defendant released on his or her~~[unsecured bond or~~
 6 ~~on the defendant's]~~ own recognizance subject to standard~~[such other]~~
 7 ~~conditions]~~~~as the court may order].~~

8 (b) When the court is making a bail determination for a verified and eligible
 9 defendant, if the defendant:

10 1. Poses a low risk as determined under subsection (3) of this section;

11 2. Has been charged with a Class A, B, or C felony; and

12 3. Has not been charged with a violent or sexual offense but has been
 13 charged with an enhanced scrutiny offense;

14 the court shall order the defendant released on his or her own recognizance
 15 subject to standard conditions and may impose additional nonfinancial
 16 conditions as outlined in KRS 431.064 and 431.518 and Section 5 of this
 17 Act.

18 (c) When the court is making a bail determination for a verified and eligible
 19 defendant, if the defendant:

20 1. Poses a low risk as determined under subsection (3) of this section;
 21 and

22 2. Has been charged with a violent or sexual offense;

23 the court may order the defendant released on his or her own recognizance
 24 subject to standard conditions, may impose additional nonfinancial
 25 conditions as outlined in KRS 431.064 and 431.518 and Section 5 of this
 26 Act, or may, either on its own or by motion of the prosecutor, detain the
 27 defendant until a detention hearing is held pursuant to Section 2 of this Act.

1 ~~(6)~~~~(4)~~ **(a) When the court is making a bail determination for**~~[H]~~ a verified and
2 eligible defendant, **if the defendant:**
3 **1. Poses a moderate risk as determined under subsection (3) of this**
4 **section;**
5 **2. Has been charged with a Class A, B, or C felony; and**
6 **3. Has not been charged with a violent or sexual offense or with an**
7 **enhanced scrutiny offense;**~~[of flight, has a moderate risk of not~~
8 ~~appearing for trial, or poses a moderate risk of danger to others,]~~
9 the court shall **order**~~[release]~~ the defendant **released on his or her own**
10 **recognizance subject to standard**~~[under the same]~~ conditions~~[as in~~
11 ~~subsection (3) of this section]~~ **and may impose additional nonfinancial**
12 **conditions as outlined in KRS 431.064 and 431.518 and Section 5 of this Act**
13 ~~[but shall consider ordering the defendant to participate in global positioning~~
14 ~~system monitoring, controlled substance testing, increased supervision, or~~
15 ~~such other conditions as the court may order].~~
16 **(b) When the court is making a bail determination for a verified and eligible**
17 **defendant, if the defendant:**
18 **1. Poses a moderate risk as determined under subsection (3) of this**
19 **section;**
20 **2. Has been charged with a Class A, B, or C felony; and**
21 **3. Has not been charged with a violent or sexual offense but has been**
22 **charged with an enhanced scrutiny offense;**
23 **the court may order the defendant released on his or her own recognizance**
24 **subject to standard conditions, may impose additional nonfinancial**
25 **conditions as outlined in KRS 431.064 and 431.518 and Section 5 of this**
26 **Act, or may, either on its own or by motion of the prosecutor, detain the**
27 **defendant until a detention hearing is held pursuant to Section 2 of this Act.**

1 (c) When the court is making a bail determination for a verified and eligible
2 defendant, if the defendant:

3 1. Poses a moderate risk as determined under subsection (3) of this
4 section; and

5 2. Has been charged with a violent or sexual offense;

6 the court shall detain the defendant until a detention hearing is held
7 pursuant to Section 2 of this Act.

8 ~~(7)~~(5) (a) When the court is making a bail determination for a verified and
9 eligible defendant, if the defendant:

10 1. Poses a high risk as determined under subsection (3) of this section;

11 2. Has been charged with a violation, misdemeanor, or Class D felony;
12 and

13 3. Has not been charged with a violent or sexual offense or with an
14 enhanced scrutiny offense;

15 the court shall order the defendant released on his or her own recognizance
16 subject to standard conditions and may impose additional nonfinancial
17 conditions as outlined in KRS 431.064 and 431.518 and Section 5 of this
18 Act.

19 (b) When the court is making a bail determination for a verified and eligible
20 defendant, if the defendant:

21 1. Poses a high risk as determined under subsection (3) of this section;

22 2. Has been charged with a Class A, B, or C felony; and

23 3. Has not been charged with a violent or sexual offense or with an
24 enhanced scrutiny offense;

25 the court may order the defendant released on his or her own recognizance
26 subject to standard conditions, may impose additional nonfinancial
27 conditions as outlined in KRS 431.064 and 431.518 and Section 5 of this

1 Act, or may, either on its own or by motion of the prosecutor, detain the
 2 defendant until a detention hearing is held pursuant to Section 2 of this Act.

3 (c) When the court is making a bail determination for a verified and eligible
 4 defendant, if the defendant:

5 1. Poses a high risk as determined under subsection (3) of this section;

6 and

7 2. Has been charged with a violent or sexual offense or with an
 8 enhanced scrutiny offense;

9 the court shall detain the defendant until a detention hearing is held
 10 pursuant to Section 2 of this Act.

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

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

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

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

20 (9) The Supreme Court may make any procedural rules necessary to implement this
 21 section

22 ~~[(a) Except as provided in paragraph (b) of this subsection, regardless of the~~
 23 ~~amount of the bail set, the court shall permit the defendant a credit of one hundred~~
 24 ~~dollars (\$100) per day as a payment toward the amount of the bail set for each day~~
 25 ~~or portion of a day that the defendant remains in jail prior to trial. Upon the service~~
 26 ~~of sufficient days in jail to have sufficient credit to satisfy the bail, the defendant~~
 27 ~~shall be released from jail on the conditions specified in this section or in this~~
 chapter.

1 ~~(b) The provisions of paragraph (a) of this subsection shall not apply to:~~

2 ~~1. Any person convicted of, pleading guilty to, or entering an Alford plea~~
 3 ~~to a felony offense under KRS Chapter 510, KRS 529.100 involving~~
 4 ~~commercial sexual activity, KRS 530.020, 530.064(1)(a), 531.310, or~~
 5 ~~531.320, or who is a violent offender as defined in KRS 439.3401; or~~

6 ~~2. A defendant who is found by the court to present a flight risk or to be a~~
 7 ~~danger to others.~~

8 ~~(c) For purposes of this subsection, "a day or portion of a day" means any time~~
 9 ~~spent in a detention facility following booking.~~

10 ~~(d) A defendant shall not earn credit pursuant to paragraph (a) of this subsection~~
 11 ~~while also earning credit pursuant to KRS 534.070.~~

12 ~~(6) If a court determines that a defendant shall not be released pursuant to subsection~~
 13 ~~(5) of this section, the court shall document the reasons for denying the release in a~~
 14 ~~written order.~~

15 ~~(7) The jailer shall be responsible for tracking the credit earned by a defendant pursuant~~
 16 ~~to subsection (5) of this section].~~

17 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO
 18 READ AS FOLLOWS:

19 **(1) A detention hearing shall be held within five (5) days of a verified and eligible**
 20 **defendant being detained pursuant to Section 1 of this Act. The detention hearing**
 21 **may be held at arraignment.**

22 **(2) (a) At the detention hearing, if the defendant poses:**

23 **1. A low or moderate risk and was detained pursuant to Section 1 of this**
 24 **Act; or**

25 **2. A high risk and was detained pursuant to Section 1 of this Act but is**
 26 **not eligible for money bail pursuant to subsection (3) of this section;**
 27 **the court shall determine whether any nonfinancial condition, or**

1 combination of conditions, outlined in KRS 431.064 and 431.518 and
2 Section 5 of this Act shall reasonably ensure the appearance of the
3 defendant for required court appearances and the safety of the public.

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

7 1. Whether the offense involves violence, obstruction of public
8 administration under KRS Chapter 519, or interference with judicial
9 administration under KRS Chapter 524; and

10 2. The history and characteristics of the defendant, including:

11 a. The defendant's character, physical and mental condition,
12 family ties, employment, financial resources, length of residence
13 in the community, community ties, past conduct, history relating
14 to drug or alcohol abuse, criminal history, and record
15 concerning appearance at court proceedings;

16 b. Whether, at the time of the current offense or arrest, the
17 defendant was on probation, on parole, on supervised release, or
18 on other release pending trial, sentencing, appeal, or completion
19 of sentence for an offense under local, state, or federal law; and

20 c. The nature and seriousness of the danger to any person or the
21 community that would be posed by the defendant's release.

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

25 1. Committed a violent or sexual offense while armed with a deadly
26 weapon or dangerous instrument;

27 2. Committed a violent or sexual offense and has previously been

1 convicted of a violent or sexual offense which was committed while on
2 release pending trial for a local, state, or federal offense;

3 3. Committed a violent or sexual offense while on release pending trial
4 for a local, state, or federal offense;

5 4. Committed two (2) or more violent or sexual offenses in separate
6 incidents that are joined in the case before the court; or

7 5. Committed a violent or sexual offense in which the victim sustained a
8 physical injury.

9 (d) After considering the information outlined in paragraph (b) of this
10 subsection and the existence, if any, of a rebuttable presumption under
11 paragraph (c) of this subsection, if the court finds by clear and convincing
12 evidence that no condition, or combination of conditions, outlined in KRS
13 431.064 and 431.518 and Section 5 of this Act shall reasonably ensure the
14 appearance of the defendant for required court appearances and the safety
15 of the public, the court shall order the defendant detained before trial. If the
16 court orders the defendant detained before trial, the court shall make
17 written findings of fact and a written statement for the reasons for the
18 detention.

19 (3) (a) At the detention hearing, if the defendant:

20 1. Poses a high risk and was detained pursuant to Section 1 of this Act;

21 2. Poses a risk of failing to appear for required court appearances;

22 3. Does not pose a danger to the public if released; and

23 4. Has not been charged with a violent or sexual offense;

24 the court may impose money bail in addition to any conditions outlined in
25 KRS 431.064 and 431.518 and Section 5 of this Act for the sole purpose of
26 reasonably ensuring the appearance of the defendant for required court
27 appearances. The court shall not impose money bail to ensure the

1 protection or the safety of the community, to ensure that the defendant will
2 not obstruct or attempt to obstruct the criminal justice process, or for the
3 purpose of preventing the release of the defendant. If imposed, the amount
4 of money bail shall be set in accordance with Section 6 of this Act.

5 (b) In considering whether to impose money bail under paragraph (a) of this
6 subsection, the court may upon its own motion, or shall upon the motion of
7 the Commonwealth, conduct an inquiry into the source of the property to be
8 designated for potential forfeiture or offered as collateral to secure a bond,
9 and shall decline to accept the designation or the use as collateral of
10 property that, because of its source, will not reasonably ensure the
11 appearance of the defendant at required court appearances.

12 (4) At the detention hearing, the defendant shall:

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

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

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

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

1 the public; or
 2 (b) Based on the Commonwealth's motion, the court finds probable cause that
 3 the defendant has failed to comply with the conditions of release. The court
 4 may either summon the defendant to appear at a hearing or issue a warrant
 5 for the defendant's arrest. If a defendant is arrested pursuant to this
 6 paragraph, a hearing shall be held within five (5) days of arrest.

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

9 ➔Section 3. KRS 27A.360 is amended to read as follows:

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

- 12 (1) Whether or not the defendant was released on bail or pretrial release;
- 13 (2) If the defendant is released on money bail under Section 2 of this Act:
- 14 (a) The amount of the bail;
- 15 (b) Whether the bail was cash, property, a percentage of cash bail, secured,
 16 unsecured, or otherwise;
- 17 (c) Whether the conditions of bail were satisfied; and
- 18 (d) Whether or not the bail was returned, forfeited, credited to the public advocate
 19 or otherwise; and
- 20 (3) If released on any other form of pretrial release:
- 21 (a) Whether or not released on own recognizance;
- 22 (b) Whether release was upon conditions, if so what conditions; and
- 23 (c) Whether the conditions of release were satisfied.

24 ➔Section 4. KRS 222.204 is amended to read as follows:

- 25 (1) A person who has been arrested and placed in jail prior to trial for violation of KRS
 26 222.202 and has not had two (2) prior convictions in the previous twelve (12)
 27 months for violation of KRS 222.202 shall be released ~~as set forth by the Supreme~~

1 ~~Court Rule of Criminal Procedure uniform schedule of bail]:~~

2 (a) To an adult who is willing to accept responsibility for the defendant through a
3 signature verification on a form determined by the Administrative Office of
4 the Courts;

5 (b) If eligible for money bail under Section 2 of this Act, upon payment of~~the~~
6 ~~pays~~ the requisite amount of bail on a bail schedule issued by the court;

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

10 (d) If he or she is ordered released by a court of competent jurisdiction; or

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

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

15 ➔Section 5. KRS 431.520 is amended to read as follows:

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

25 (1) Place the person in the custody of a designated person or organization agreeing to
26 supervise him or her;

27 (2) Place restrictions on the travel, association, or place of abode of the person during

- 1 the period of release;
- 2 (3) **For those eligible for money bail under Section 2 of this Act,** require the execution
- 3 of a bail bond:
- 4 (a) With sufficient personal surety or sureties acceptable to the court; in
- 5 determining the sufficiency of such surety or sureties, the court shall consider
- 6 his **or her** character,~~[-his]~~ place of residence,~~[-his]~~ relationship with the
- 7 defendant, and~~[-his]~~ financial and employment circumstances;~~[-or]~~
- 8 (b) With the ten percent (10%) deposit as provided in KRS 431.530; ~~provided~~
- 9 ~~that if the defendant is permitted to earn credit toward bail pursuant to KRS~~
- 10 ~~431.066, that credit shall be applied to the ten percent (10%) deposit; }or~~
- 11 (c) With the deposit of cash equal to the amount of the bond or in lieu thereof
- 12 acceptable security as provided in KRS 431.535;
- 13 (4) If the person's record indicates a history of controlled substance or alcohol abuse:
- 14 (a) Order the person to submit to periodic testing for use of controlled substances
- 15 or alcohol and pay a reasonable fee, not to exceed the actual cost of the test
- 16 and analysis, as determined by the court with the fee to be collected by the
- 17 circuit clerk, held in an agency account, and disbursed, on court order, solely
- 18 to the agency or agencies responsible for testing and analysis as compensation
- 19 for the cost of the testing and analysis performed under this subsection. If the
- 20 person is declared indigent, the testing fee may be waived by the court. The
- 21 Administrative Office of the Courts shall establish pilot projects to implement
- 22 the provisions of this subsection; or
- 23 (b) Order the person to use an alcohol monitoring device, as defined in KRS
- 24 431.068. All costs associated with the device, including administrative and
- 25 operating costs, shall be paid by the defendant. If the court determines that the
- 26 defendant is indigent, and a person, county, or other organization has not
- 27 agreed to pay the costs for the defendant in an attempt to reduce incarceration

- 1 expenses and increase public safety, the court shall consider other conditions
2 of release provided for in this section;
- 3 (5) (a) During all or part of a person's period of release pursuant to this section, order
4 the person to participate in a global positioning monitoring system program
5 operated by a county pursuant to KRS 67.372 and 67.374 under the same
6 terms and conditions provided under KRS 431.517.
- 7 (b) If the person is charged with a sex crime as defined in KRS 17.500, consider
8 requiring that he or she be monitored electronically, and shall consider
9 requiring the person be subject to home incarceration;
- 10 (6) Impose any ***nonfinancial conditions***~~[other condition]~~ deemed reasonably necessary
11 to ***ensure***~~[assure]~~ appearance as required, including a condition requiring that the
12 person return to custody after specified hours;
- 13 (7) A court authorizing the release of a person pursuant to this section shall cause the
14 issuance of an appropriate order containing a statement of the conditions imposed,
15 if any, shall cause such person to be informed of the penalties applicable to
16 violations of the conditions of his ***or her*** release, and shall cause him ***or her*** to be
17 informed that a warrant for his ***or her*** arrest will be issued immediately upon any
18 such violation;
- 19 (8) A person for whom conditions of release are imposed and who after twenty-four
20 (24) hours from the time of the imposition of said conditions continues to be
21 detained as a result of his ***or her*** inability to meet the conditions of release shall,
22 upon written application or upon the court's own motion, be entitled to have the
23 conditions reviewed by the court which imposed them. A person who is ordered
24 released on a condition which requires that he ***or she*** return to custody after
25 specified hours shall, upon written application or upon the court's own motion, be
26 entitled to a review by the court which imposed the condition; or
- 27 (9) If at any time following release of a defendant and before he ***or she*** is required to

1 appear for trial, the court is advised of a material change in the defendant's
2 circumstances or that he or she has not complied with all conditions imposed upon
3 his or her release, the court having jurisdiction may:

- 4 (a) Order the arrest of the defendant;
- 5 (b) Enter an order requiring the defendant, his or her surety or sureties to appear
6 and show cause why the bail bond should not be forfeited or the conditions of
7 his or her release be changed; or
- 8 (c) Both.

9 A copy of said order shall be served upon the defendant ~~and~~ his or her surety or
10 sureties. If the defendant fails to appear before the court as ordered or if, after
11 hearing, the court finds the conditions of release have not been complied with, the
12 court may change the conditions imposed or forfeit the bail bond or any portion
13 thereof and enter a judgment for the Commonwealth against the defendant and his
14 or her surety or sureties for the amount of the bail bond or any portion thereof and
15 cost of the proceedings.

16 ➔Section 6. KRS 431.525 is amended to read as follows:

- 17 (1) *For those eligible for money bail under Section 2 of this Act,* the amount of the
18 bail shall be:
- 19 (a) Sufficient to ~~ensure~~~~[insure]~~ compliance with the conditions of release set by
20 the court;
- 21 (b) Not oppressive;
- 22 (c) Commensurate with the nature of the offense charged;
- 23 (d) Considerate of the past criminal acts and the reasonably anticipated conduct
24 of the defendant if released; and
- 25 (e) Considerate of the financial ability of the defendant.
- 26 (2) When a person is *eligible for money bail under Section 2 of this Act and is*
27 charged with an offense punishable by fine only, the amount of the bail bond set

1 shall not exceed the amount of the maximum penalty and costs.

2 (3) When a person is eligible for money bail under Section 2 of this Act and has been
3 convicted of an offense and only a fine has been imposed, the amount of the bail
4 shall not exceed the amount of the fine.

5 (4) When a person is eligible for money bail under Section 2 of this Act and has been
6 charged with one (1) or more misdemeanors, the amount of the bail for all charges
7 shall be encompassed by a single amount of bail that shall not exceed the amount of
8 the fine and court costs for the one (1) highest misdemeanor charged. This
9 subsection shall apply only to misdemeanor offenses not involving physical injury
10 or sexual contact.

11 (5) When a person is eligible for money bail under Section 2 of this Act and has been
12 convicted of a misdemeanor offense and a sentence of jail, probation, conditional
13 discharge, or sentence other than a fine only has been imposed, the amount of bail
14 for release on appeal shall not exceed double the amount of the maximum fine that
15 could have been imposed for the one (1) highest misdemeanor offense for which the
16 person was convicted. This subsection shall apply only to misdemeanors not
17 involving physical injury or sexual contact.

18 ~~(6) [The provisions of this section shall not apply to a defendant who is found by the~~
19 ~~court to present a flight risk or to be a danger to others.~~

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

23 ~~(8)]The Administrative Office of the Courts shall establish pilot projects to implement~~
24 ~~controlled substance or alcohol abuse testing as specified under this subsection. If~~
25 ~~the person's record indicates a history of controlled substance or alcohol abuse, the~~
26 ~~court may order the person to submit to periodic testing for use of controlled~~
27 ~~substances or alcohol and to pay a reasonable fee, not to exceed the actual cost of~~

1 the test and analysis, as determined by the court, with the fee to be collected by the
2 circuit clerk, held in an agency account, and disbursed, on court order, solely to the
3 agency or agencies responsible for testing and analysis as compensation for the cost
4 of the testing and analysis performed under this subsection. If the person is declared
5 indigent, the testing fee may be waived by the court. If the court finds the
6 conditions of release have not been complied with, the court may change the
7 conditions imposed or forfeit the bail bond or any portion thereof and enter a
8 judgment for the Commonwealth against the person and his *or her* surety or
9 sureties for the amount of the bail bond or any portion thereof and the cost of the
10 proceedings.

11 ➔Section 7. KRS 431.530 is amended to read as follows:

- 12 (1) Any person who has been permitted to execute a bail bond in accordance with KRS
13 431.520(3)(b) shall deposit with the clerk of the court before which the action is
14 pending a sum of money equal to ten percent (10%) of the bail, but in no event shall
15 such deposit be less than ten dollars (\$10) ~~unless the defendant earned full credit~~
16 ~~toward the applicable amount of bail pursuant to KRS 431.066, in which case the~~
17 ~~defendant shall not be required to make a deposit with the clerk of the court].~~
- 18 (2) Upon depositing said sum the defendant shall be released from custody subject to
19 all conditions of release imposed by the court.
- 20 (3) Except as provided in subsection (5) of this section, if the conditions of release have
21 been performed and the defendant has been discharged from all obligations in the
22 action the clerk of the court shall return to the defendant, unless the court orders
23 otherwise, ninety percent (90%) of the sum deposited and shall retain as bail costs
24 ten percent (10%) of the amount deposited; provided, however, in no event shall the
25 amount retained by the clerk as bail costs be less than five dollars (\$5). It is further
26 provided that the court shall order the clerk of court to pay into the public advocate
27 special account any amount of the sum deposited by the defendant, in excess of bail

1 costs, which in its sound discretion represents a reasonable fee for any public
 2 advocate legal or investigative services provided for the defendant under KRS
 3 Chapter 31, but in no event shall the amount so paid to the public advocate special
 4 account as public advocate legal and investigative fees be less than five dollars (\$5)
 5 per case. At the request of the defendant the court may order the amount repayable
 6 to defendant from such deposit to be paid to defendant's attorney of record.

7 (4) Except as provided in subsection (5) of this section, if a final judgment for a fine
 8 and court costs or either is entered in the prosecution of an action in which a deposit
 9 has been made in accordance with subsection (1) of this section, the balance of such
 10 deposit, after deduction of bail costs and public advocate fees as provided for in
 11 subsection (3) of this section, shall be applied to the satisfaction of the judgment.

12 (5) If the defendant has performed all conditions of release and if the defendant is
 13 found not guilty of the offense for which bail was posted, or if all charges against
 14 him *or her* relating to the offense for which bail was posted are dropped or
 15 dismissed, then all bail money deposited by the defendant or by another person on
 16 his *or her* behalf shall be returned to him *or her* with no deductions therefrom as
 17 provided in subsection (3) or (4) of this section.

18 ➔Section 8. KRS 431.540 is amended to read as follows:

19 **(1)** The Supreme Court may by rule or order prescribe a uniform schedule of amounts
 20 of bail in designated nonviolent Class D felonies, misdemeanors, and violations *for*
 21 **defendants eligible for money bail under Section 2 of this Act.**~~;~~

22 ~~(2)~~~~(1)~~ Except as provided in subsection ~~(3)~~~~(2)~~ of this section, when the amount of
 23 bail is fixed by such rule or order of the Supreme Court for a particular offense, the
 24 clerk of the court or other public officers so authorized by the court's order shall
 25 accept cash bail in the prescribed amount or the deposit authorized by KRS 431.530
 26 and release the defendant to appear in accordance with the conditions of the bail
 27 bond. A receipt shall be delivered to the defendant for the bail so taken and within a

1 reasonable time such bail shall be deposited with the clerk of the court having
2 jurisdiction of the offense.

3 ~~(3)(2)~~ A court may, in the exercise of its reasonable discretion, refuse to set bail in
4 the amount prescribed by such rule or order of the Supreme Court, but, in so doing,
5 the court must set forth in writing its reasons for such refusal.

6 ➔Section 9. KRS 452.260 is amended to read as follows:

7 If the defendant is in custody, the order for the change of venue shall be accompanied by
8 an order for his or her removal by the sheriff or jailer of the county in which he or she is
9 held, with such sufficient guard as the court directs, and for his or her delivery to the
10 jailer of the county where the trial is to be held. If the defendant is under recognizance or
11 bond for his or her appearance, he or she shall **be ordered to appear before**~~[, before the~~
12 ~~order is granted, give sufficient bail for his appearance at]~~ the proper court~~[, or be~~
13 ~~surrendered into the custody of the proper officer].~~

14 ➔Section 10. KRS 431.510 is amended to read as follows:

15 (1) As used in this section:

16 (a) 1. "Bail bondsman" means any person, partnership, or corporation engaged
17 for profit in the business of:

18 a. Furnishing bail, making bonds, or entering into undertakings, as
19 surety, for the appearance of persons charged with any criminal
20 offense or violation of law or ordinance punishable by fine,
21 imprisonment, or death, before any of the courts of this state; or

22 b. Securing the payment of fines imposed and of costs assessed by
23 those courts upon final disposition thereof.

24 2. The business of a bail bondsman is limited to the acts, transactions, and
25 undertakings described in this paragraph and to no other; and

26 (b) "Charitable bail organization" means an organization, including but not
27 limited to an organization exempt under Section 501(c)(3) of the Internal

1 Revenue Code, that solicits or accepts donations from the public for the
2 purpose of:

- 3 1. Furnishing bail, making bonds, or entering into undertakings, as surety,
4 whether through direct payment or by payment through a third party, for
5 the appearance of persons charged with any criminal offense or violation
6 of law or ordinance punishable by fine, imprisonment, or death before
7 any of the courts of this state; or
- 8 2. Securing the payment of fines imposed and of costs assessed by any of
9 the courts of this state upon final disposition thereof.

10 (2) It shall be unlawful for any person to engage in the business of bail bondsman or to
11 otherwise for compensation or other consideration:

- 12 (a) Furnish bail or funds or property to serve as bail; or
- 13 (b) Make bonds or enter into undertakings as surety;
14 for the appearance of persons charged with any criminal offense or violation of law
15 or ordinance punishable by fine, imprisonment, or death, before any of the courts of
16 this state, or to secure the payment of fines imposed and of costs assessed by such
17 courts upon a final disposition.

18 (3) It shall be unlawful for any charitable bail organization to:

- 19 (a) Furnish bail or funds or property to serve as bail in an amount of five
20 thousand dollars (\$5,000) or more; or
- 21 (b) Make bonds or enter into undertakings as surety in an amount of five
22 thousand dollars (\$5,000) or more;
23 for the appearance of persons charged with any criminal offense or violation of law
24 or ordinance punishable by fine or imprisonment before any of the courts of this
25 state, or to secure the payment of fines imposed and of costs assessed by those
26 courts upon a final disposition.

27 (4) Notwithstanding subsection (3) of this section, it shall be unlawful for any

- 1 charitable bail organization to furnish bail or funds or property to serve as bail, or to
2 make bonds or enter into undertakings as surety, regardless of amount, for any
3 person:
- 4 (a) Alleged to have committed an offense:
- 5 1. Of domestic violence and abuse as defined in KRS 403.720;
6 2. Of dating violence and abuse as defined in KRS 456.010; or
7 3. That would classify the person as a violent offender under KRS
8 439.3401;
- 9 (b) Held under a civil court order or warrant issued under KRS 222.430 to
10 222.437; or
- 11 (c) Who has previously received bail or funds or property to serve as bail from a
12 charitable bail organization.
- 13 (5) Any person who posts bail or bond on behalf of any organization under this section
14 shall provide a photo identification.
- 15 (6) A charitable bail organization shall maintain and annually report the following
16 information to the Legislative Research Commission for referral to the Interim Joint
17 Committee on Judiciary no later than October 31 of each year, and shall make
18 publicly available on the organization's website, or by publishing in a newspaper of
19 general circulation that complies with the requirements of KRS 424.120 if the
20 organization does not maintain a website:
- 21 (a) The expenditures of the organization, including a separate reporting of the
22 amount furnished for bail, or funds or property to serve as bail; and
- 23 (b) The number of individuals and classification of offenses for those individuals
24 for which any bail, or funds or property to serve as bail, has been provided.
- 25 (7) Any bond posted by a charitable organization under this section that is ordered
26 forfeited as a result of the commission of a new criminal offense shall be distributed
27 to the victim of the new criminal offense, if a victim is identified.

1 (8) Nothing contained in this section shall serve to release any bail bondsman
2 previously licensed by this state from the obligation of undischarged bail bond
3 liability existing on June 19, 1976.

4 (9) KRS 431.510 to 431.550 shall not be construed to ~~limit or repeal KRS 431.021 or~~
5 ~~to~~ prevent licensed insurers providing security required by Subtitle 39 of KRS
6 Chapter 304 and nonprofit associations from posting or causing to be posted by
7 licensed insurers security or acting as surety for their insureds or members for an
8 offense arising from the operation of a motor vehicle, provided that such posting of
9 security or acting as surety is merely incidental to the terms and conditions of an
10 insurance contract or a membership agreement and provided further that no separate
11 premium or charge therefor is required from the insureds or members.

12 ➔Section 11. The following KRS section is repealed:

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