

1 AN ACT relating to the behavioral health conditional dismissal program.

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

3 ➔Section 1. KRS 533.272 is amended to read as follows:

- 4 (1) A pilot program shall be established in no ~~more~~^{less} than twenty (20)~~ten (10)~~
- 5 counties selected by the Chief Justice of the Supreme Court to participate in a
- 6 behavioral health conditional dismissal program. The pilot program shall begin
- 7 January 1, 2023, and shall continue until January 1, 2031~~last for four (4) years~~
- 8 unless extended or limited by the General Assembly.
- 9 (2) Each participating county shall have access to:
- 10 (a) Medication-assisted treatment;
- 11 (b) Recovery services as defined under KRS 533.270; and
- 12 (c) Educational and vocational resources sufficient to provide the training and
- 13 assistance required under KRS 533.286.
- 14 (3) (a) Every behavioral health treatment program provider in the pilot program shall
- 15 collect and maintain data as provided in this subsection relating to program
- 16 participants under their care, designed to inform the outcomes and
- 17 effectiveness of the pilot program, to be submitted to the Administrative
- 18 Office of the Courts as provided under paragraphs (b) to (e) of this subsection.
- 19 (b) A report shall be made for each program participant no later than fourteen
- 20 (14) days following the initiation of treatment. The data to be collected and
- 21 submitted in the report shall include the following information regarding each
- 22 participant:
- 23 1. Age, gender, and race or ethnicity;
- 24 2. Housing history;
- 25 3. Educational history;
- 26 4. Employment history;
- 27 5. Past involvement in addiction recovery and treatment for a substance

1 use disorder;

2 6. Past treatment for a mental health disorder; and

3 7. Criminal history.

4 (c) A second report shall be made for each program participant identified in
5 paragraph (b) of this subsection no later than twenty-eight (28) days after
6 filing the initial report and shall provide the progression of the program
7 participant, including but not limited to:

8 1. Continuation in the program;

9 2. The status and type of recommended treatment;

10 3. Employment or job training;

11 4. The status and type of educational training;

12 5. Housing status;

13 6. Any other information the program provider determines may assist in
14 evaluation of the pilot program; and

15 7. If the participant has been discharged from the program due to an
16 inability or unwillingness to meet the terms and conditions of the
17 treatment program, including the specific reason for the discharge.

18 (d) Subsequent reports shall be filed on a quarterly basis. The initial quarterly
19 report shall be submitted no later than April 15, 2023, with reports due
20 thereafter on January 15, April 15, July 15, and October 15 of each year of the
21 pilot program. The quarterly reports shall include for the reporting period:

22 1. The information required under paragraph (c) of this subsection as it
23 relates to each program participant, including the length of time the
24 individual has been a program participant;

25 2. The number of clinical assessments performed by the program provider;

26 3. The total number of individuals participating in the behavioral health
27 conditional dismissal program with that provider;

- 1 4. The number of individuals who remain in compliance with the terms
2 and conditions of the treatment program;
 - 3 5. The number of individuals who have been discharged from the program
4 due to an inability or unwillingness to meet the terms and conditions of
5 the treatment program, including the specific reason for the discharge;
 - 6 6. For any individual discharged under subparagraph 5. of this paragraph,
7 the length of time the individual participated in the program;
 - 8 7. The number of individuals who have been discharged from the program
9 upon successful completion of the treatment program requirements;
 - 10 8. The number of individuals who have received medication-assisted
11 treatment and the result of that treatment;
 - 12 9. The number of individuals who have completed a recommended job
13 skills or job training program; and
 - 14 10. The number of individuals who have completed a recommended
15 educational component of the program.
- 16 (e) A final report shall be filed for each program participant no later than thirty
17 (30) days following discharge from the program and shall contain, at a
18 minimum, the following information:
- 19 1. If the discharge from the program was due to an inability or
20 unwillingness to meet the terms and conditions of the treatment program
21 the:
 - 22 a. Specific reason for the discharge;
 - 23 b. Length of time the individual participated in the program;
 - 24 c. Goals met during the participation period;
 - 25 d. Identified barriers to completion of the program, if known; and
 - 26 e. Recommended adjustments to the behavioral health conditional
27 dismissal program that could provide a greater probability of

- 1 successful completion to similar participants; and
- 2 2. If the discharge from the program occurred upon successful completion
- 3 of the program requirements:
- 4 a. The length of time the individual participated in the program;
- 5 b. A summary of the specific programs completed and goals attained
- 6 by the participant;
- 7 c. What continued treatment, if any, is recommended; and
- 8 d. Recommended adjustments to the behavioral health conditional
- 9 dismissal program that could provide greater benefit to similar
- 10 participants.
- 11 (4) The attorneys for the Commonwealth participating in the pilot program shall submit
- 12 quarterly reports to the Administrative Office of the Courts. The initial quarterly
- 13 report shall be submitted no later than April 15, 2023, with reports due thereafter on
- 14 January 15, April 15, July 15, and October 15 of each year of the pilot program.
- 15 The quarterly reports shall include for the reporting period:
- 16 (a) The number of eligible defendants, including the defendant's race, ethnicity,
- 17 and gender, who were offered participation in the behavioral health
- 18 conditional dismissal program but declined to participate;
- 19 (b) The number of eligible defendants, including the defendant's race, ethnicity,
- 20 and gender, who sought to participate in the program but whose participation
- 21 was not agreed to by the attorney for the Commonwealth;
- 22 (c) The number of victims, if there is an identified victim, who did not participate
- 23 in the process; and
- 24 (d) The number of victims, if there is an identified victim, who did not agree to
- 25 the defendant's participation in the program.
- 26 (5) If the attorney for the Commonwealth did not agree to an eligible defendant's
- 27 participation in the behavioral health conditional dismissal program, he or she shall

1 include in each quarterly report to the Administrative Office of the Courts the
 2 specific offenses charged for that defendant, and the substantial and compelling
 3 reasons, based upon delineated facts specific to the defendant, why the defendant
 4 was denied participation in the program.

5 (6) The Chief Justice of the Supreme Court shall submit an annual report to the
 6 Legislative Research Commission, the chair of the Senate Standing Committee on
 7 Judiciary, the chair of the House Standing Committee on Judiciary, and the
 8 Governor by January 31 of each year that includes the information received from
 9 the attorneys for the Commonwealth and the providers for the counties participating
 10 in the behavioral health conditional dismissal program. The report shall include the
 11 information reported under subsections (3) to (5) of this section and shall also
 12 include:

- 13 (a) The number of defendants assessed who did not meet the eligibility
 14 requirements for the program following the clinical assessment;
- 15 (b) The specific offenses charged for each defendant and the classification of
 16 offenses charged;
- 17 (c) The percentage of defendants participating in the program who successfully
 18 completed the program;
- 19 (d) The percentage of defendants discharged from the program for
 20 noncompliance; and
- 21 (e) The percentage of defendants who are arrested, convicted, and incarcerated
 22 within:

- 23 1. Six (6) months;~~[,]~~
- 24 2. One (1) year;~~[, and]~~
- 25 3. Two (2) years;
- 26 4. *Three (3) years;*
- 27 5. *Four (4) years; and*

1 **6. Five (5) years;**

2 of successful completion of the program.

3 **(7) (a) The annual report required in subsection (6) of this section shall also**
4 **include the information required under subsection (6)(e) of this section for**
5 **defendants arrested, convicted, and incarcerated of a qualifying offense as**
6 **defined in KRS 533.270 in counties not participating in the program.**

7 **(b) The information required under paragraph (a) of this subsection shall be**
8 **obtained for defendants in counties of similar population and geographical**
9 **location to a county participating in the program.**

10 ➔Section 2. KRS 533.288 is amended to read as follows:

11 (1) The Behavioral Health Conditional Dismissal Program Implementation Council is
12 created for the purpose of assisting with the implementation of the behavioral health
13 conditional dismissal pilot program created under KRS 533.272.

14 (2) The membership of the council shall include the following:

15 (a) The executive director of the Office of Drug Control Policy, or his or her
16 designee, who shall serve as chair of the council;

17 (b) The director of the Administrative Office of the Courts, or his or her designee;

18 (c) The commissioner of the Department for Behavioral Health, Developmental
19 and Intellectual Disabilities, or his or her designee;

20 (d) The commissioner of the Kentucky Department for Medicaid Services, or his
21 or her designee;

22 (e) The public advocate, or his or her designee;

23 (f) A member of the Kentucky Commonwealth's Attorneys' Association, elected
24 by its membership;

25 (g) A member of the Kentucky County Attorneys Association;

26 (h) One (1) Circuit Judge, elected by the Circuit Judges Association of Kentucky;

27 (i) One (1) District Judge, elected by the District Judges Association of

- 1 Kentucky;
- 2 (j) The executive director of the Office of Adult Education, or his or her
3 designee;
- 4 (k) The executive director of the Kentucky Jailers Association, or his or her
5 designee; and
- 6 (l) Two (2) individuals selected by the Kentucky Association of Regional
7 Programs, one (1) of whom shall be in recovery from a substance use disorder
8 and one (1) of whom is being treated or has been treated for a mental health
9 disorder as defined in KRS 533.270.
- 10 (3) The council shall meet at least quarterly. Meetings shall be held at the call of the
11 chair, or upon the written request of two (2) members to the chair.
- 12 (4) The council shall:
- 13 (a) Oversee the implementation of the behavioral health conditional dismissal
14 program pilot project; and
- 15 (b) Review the data collected by the Administrative Office of the Courts and
16 report to the Interim Joint Committee on Judiciary and the Governor by
17 October 1 of each year of the pilot project regarding:
- 18 1. Recommendations for any additional performance measures needed to
19 promote the success of the program;
- 20 2. Whether any action is necessary, including funding or legislation;
- 21 3. Recommendations for resolving any matters that reduce the
22 effectiveness of the program; and
- 23 4. Any additional information the council deems appropriate.
- 24 (5) Members shall not receive any additional compensation for their service on the
25 council but shall be reimbursed for all necessary expenses.
- 26 (6) The council shall be attached to the Justice and Public Safety Cabinet for
27 administrative purposes.

1 (7) The council shall terminate December 31, 2031~~December 31, 2027~~, unless
2 extended by the General Assembly.

3 ➔Section 3. 2022 Ky. Acts ch. 230, sec. 13 is amended to read as follows:

4 Notwithstanding KRS 15.291 and 15.293(5), there is hereby appropriated Restricted
5 Funds in the amount \$10,500,000 in each fiscal year beginning July 1, 2022, and ending
6 June 30, 2026, from the Opioid Abatement Trust Fund to the Behavioral Health,
7 Developmental and Intellectual Disabilities budget unit for the behavioral health
8 conditional dismissal program described in Sections 1 to 8 of this Act. The department
9 shall reimburse the Administrative Office of the Courts for administrative costs related to
10 the program up to \$500,000 per year. Notwithstanding KRS 45.229, moneys not
11 expended at the close of fiscal year 2025-2026 shall not lapse but shall be carried
12 forward.

13 ➔Section 4. KRS 210.040 is amended to read as follows:

14 The Cabinet for Health and Family Services shall:

15 (1) Exercise all functions of the state in relation to the administration and operation of
16 the state facilities~~institutions~~ for the care and treatment of persons with mental
17 illness;

18 (2) Establish or acquire, in accordance with the provisions of KRS 56.440 to 56.550,
19 other or additional facilities for psychiatric care and treatment of persons who are or
20 may become state charges;

21 (3) Cooperate with other state agencies for the development of a statewide mental
22 health program looking toward the prevention of mental illness and the
23 aftercare~~post-institutional care~~ of persons released from public or private mental
24 hospitals;

25 (4) Provide for the custody, maintenance, care, and medical and psychiatric treatment
26 of the patients of the facilities~~institutions~~ operated by the cabinet, including
27 emergency and other medical care required to be provided outside of the facility

1 while the patient is admitted to the facility. Expenses of the outside medical
2 provider, other than elective procedures or elective surgery, shall be paid by the
3 cabinet and included in the determination of the patient liability when not
4 covered by the patient's third-party payor;

- 5 (5) Provide psychiatric consultation for the state penal and correctional institutions, and
6 for the state facilities~~[institutions]~~ operated for children or for persons with an
7 intellectual disability;
- 8 (6) Administer and supervise programs for the ~~[noninstitutional]~~ care of persons with
9 mental illness outside of state facilities;
- 10 (7) Administer and supervise programs for the care of persons with chronic mental
11 illness, including but not limited to provision of the following:
- 12 (a) Identification of persons with chronic mental illness residing in the area to be
13 served;
- 14 (b) Assistance to persons with chronic mental illness in gaining access to
15 essential mental health services, medical and rehabilitation services,
16 employment, housing, and other support services designed to enable persons
17 with chronic mental illness to function outside inpatient facilities~~[institutions]~~
18 to the maximum extent of their capabilities;
- 19 (c) Establishment of community-based transitional living facilities with twenty-
20 four (24) hour supervision and community-based cooperative facilities with
21 part-time supervision; provided that, no more than either one (1) transitional
22 facility or one (1) cooperative facility may be established in a county
23 containing a city of the first class or consolidated local government with any
24 funds available to the cabinet;
- 25 (d) Assurance of the availability of a case manager for each person with chronic
26 mental illness to determine what services are needed and to be responsible for
27 their provision; and

- 1 (e) Coordination of the provision of mental health and related support services
2 with the provision of other support services to persons with chronic mental
3 illness;
- 4 (8) Require all providers who receive public funds through state contracts, state grants,
5 or reimbursement for services provided to have formalized quality assurance and
6 quality improvement processes, including but not limited to a grievance procedure;
7 and
- 8 (9) Supervise private mental hospitals receiving patients committed by order of a court.