

1           AN ACT relating to prison educational programs.

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

3           ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO  
4 READ AS FOLLOWS:

5    (1) The Kentucky Community and Technical College System Prison Education  
6    Program, or KCTCS Prison Education Program, is hereby established within the  
7    department to provide inmates with intensive, hands-on job training in high-  
8    demand workforce sectors.

9    (2) The department shall enter into a memorandum of agreement with the Kentucky  
10    Community and Technical College System (KCTCS) as defined in KRS 164.001  
11    in accordance with Section 2 of this Act to provide academic instruction for the  
12    program.

13    (3) (a) The program established in subsection (1) of this section shall be located on  
14      the grounds of the Northpoint Training Center.

15    (b) The department shall:

16      1. Manage facility operations, including operations related to safety and  
17      security;  
18      2. Be responsible for all maintenance and repair of the facility, utilities,  
19      and facility supplies; and  
20      3. Provide inmate transportation to the facility, inmate meals and food  
21      services, and inmate housing that is segregated from the general  
22      prison population.

23    (4) The program shall not be available to an inmate serving a sentence:

24      (a) Of imprisonment for life without possibility of parole;  
25      (b) For escape or attempted escape; or  
26      (c) For a sex crime as defined in KRS 17.500.

27    (5) (a) The department shall be responsible for the identification of candidates for

1                   the program, including recruitment and selection, in accordance with the  
2                   restrictions set forth in subsection (4) of this section and as determined by  
3                   the department.

4                   (b) Selection of candidates for the program shall include consideration of:

- 5                   1. Established security criteria;
- 6                   2. Industry guidance for second-chance employment; and
- 7                   3. The capacity of academic instructors to provide industry-  
8                   recommended and high-need training.

9                   (6) An inmate who is selected and meets eligibility requirements shall be transported  
10                   by the department to the Northpoint Training Center facility.

11                   (7) The department shall promulgate administrative regulations in accordance with  
12                   KRS Chapter 13A relating to:

13                   (a) The selection and eligibility of inmates for the program, including but not  
14                   limited to the following criteria:

- 15                   1. The inmate's academic background;
- 16                   2. Vocational counseling or testing that indicates the inmate has an  
17                   interest or aptitude for a particular trade; and
- 18                   3. The inmate's willingness to abide by the attendance, academic, and  
19                   behavioral requirements of the program;

20                   (b) The terms and conditions under which inmates may continue in the  
21                   program;

22                   (c) The adequate care, supervision, guarding, disciplining, maintenance,  
23                   transportation, and housing of inmates when assigned to the program;

24                   (d) Availability and accessibility of post-release services, including  
25                   consideration of education and employment requirements in administering  
26                   terms of probation and parole;

27                   (e) The collection of data to include:

1      1. The number of inmates:

2      a. Participating in the program who receive an offer of employment  
3      prior to release;  
4      b. Who successfully complete the program; and  
5      c. Who were unsuccessful and the reason for removal from the  
6      program; and

7      2. Following completion of the program and release from the facility, the  
8      number of inmates with:

9      a. Successful completion of parole;  
10      b. A violation of parole;  
11      c. A return to prison as a result of a parole violation and the date  
12      the inmate returned; and  
13      d. A return to prison as a result of the commission of a new  
14      offense;

15      (f) Requirements of KCTCS employees, including:

16      1. Compliance with the department's institutional safety and facilities  
17      management policies and procedures; and  
18      2. Participation in the department's drug-testing program, including  
19      random screenings and tests based upon reasonable suspicion of drug  
20      or alcohol impairment, as determined by the warden of the institution,  
21      and at the cost of the department if the test is administered at a  
22      department facility by a department vendor;

23      (g) Policies to permit remote instruction or services during emergencies or  
24      pandemics, consistent with department and health advisories of the  
25      Commonwealth; and

26      (h) Any other regulations the department deems necessary and appropriate to  
27      carry out the requirements of this section.

1       (8) Hours of classroom instruction shall model, to the extent possible, an average  
2       workday similar to what the inmate can expect to experience in employment upon  
3       release.

4       (9) Instruction shall occur outside of any area accessible by the general population  
5       of the facility and inmates participating in the program shall be segregated from  
6       the general prison population at all times.

7       (10) Potential employers shall have the opportunity to recruit and interview potential  
8       employees prior to parole.

9       (11) KCTCS shall:

10       (a) Construct a facility on the grounds of Northpoint Training Center to  
11       provide academic instruction for the prison education program established  
12       in this section;

13       (b) Upon completion of the facility construction under paragraph (a) of this  
14       subsection, deed the facility to the department which will bear responsibility  
15       for management, operations, security, and maintenance. The details of the  
16       prison education program will be jointly determined by the department and  
17       KCTCS outlined in a memorandum of agreement between the parties;

18       (c) Retain ownership, maintenance, and responsibility for all equipment related  
19       to academic instruction within the prison education program;

20       (d) Ensure compliance with all applicable federal, state, and local laws;

21       (e) Enter into and maintain all appropriate confidentiality and data protection  
22       agreements, including nondisclosure forms, for all academic instruction  
23       employees accessing Commonwealth data;

24       (f) Provide academic instruction within the facility and all components  
25       required for instruction, including a learning management system; and

26       (g) Determine program placement with regard to a participant's academic  
27       readiness.

1            ➔ SECTION 2. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO  
2 READ AS FOLLOWS:

3            (1) The memorandum of agreement required under Section 1 of this Act between the  
4            department and the Kentucky Community and Technical College System  
5            (KCTCS) shall establish the duties and responsibilities of each party.

6            (2) The duties and responsibilities of the department shall include:

7            (a) Establishing rules of conduct for inmates participating in the program and  
8            maintaining decision-making authority related to any disciplinary action for  
9            violations of the rules established under this paragraph;

10            (b) Marketing the program across correctional facilities throughout the  
11            Commonwealth with inmates who may meet eligibility requirements;

12            (c) Providing training for each college employee entering the facility or  
13            communicating with an inmate, including necessary training related to  
14            safety, security, and relevant policies and procedures;

15            (d) Providing training for each college employee entering the facility or  
16            communicating with a participating inmate virtually or in a distance  
17            format;

18            (e) For the training required under paragraphs (c) and (d) of this subsection,  
19            providing modules related to:

20            1. Safety, security, and related policies and procedures;

21            2. The Prison Rape Elimination Act, 34 U.S.C. sec. 30301 et seq.;

22            3. Maintaining professional boundaries; and

23            4. The use of core correctional practices to effectively respond to  
24            behavior;

25            (f) Providing KCTCS with necessary data to operate the program, including:

26            1. The transfer and release dates of inmates participating in the program  
27            as required by the United States Secretary of Education under 34

C.F.R. sec. 668.239:

2. A roster of inmates approved for the program to be submitted to the  
college's designated office for each term;
3. Grades and course completions entered into the Kentucky Offender  
Management System;
4. Information to determine the last day of attendance; and
5. Information to assist in tracking graduates post-release;

8. (g) Helping to facilitate required verification, identification, and financial aid  
documents with identified federal agencies for participation in the program;

10. (h) Providing operational support to successfully carry out the program,  
including:

12. 1. Adequate security staffing to support the inmates participating in the  
program at the KCTCS Prison Education Program campus and  
collaborating with external partners on reentry services;
13. 2. Office space, copier access, and utilities at no cost to KCTCS;
14. 3. Clear processes and systems to pay for education expenses, for use by  
inmates participating in the program;
15. 4. Background checks of all KCTCS employees using the department's  
approved vendors and processes;
16. 5. Maintenance and replacement of learning technology onsite to ensure  
continuity in the learning environment when technology  
malfunctions, including the use of department-issued tablets; and
17. 6. Facilitating the purchase and acquisition of class supplies at the  
beginning of each academic term and charging the cost, along with  
books, to the participating inmate's financial aid account; and

25. (i) Participating in joint meetings between the department and KCTCS to  
review program outcomes, security issues, and facility updates each term.

1        (3) The duties and responsibilities of KCTCS shall include:

2        (a) Establishing rules of academic conduct for inmates participating in the  
3        program and maintaining decision-making authority related to any  
4        disciplinary action for violations of the rules established under this  
5        paragraph;

6        (b) Ensuring compliance with all applicable federal, state, and local laws  
7        related to student privacy and department security procedures;

8        (c) Maintaining all instructional equipment that is provided by KCTCS within  
9        the facility, outside of learning technology that is part of the prison  
10        environment;

11        (d) Providing marketing support for the program including:

12        1. Brand guidelines;

13        2. Program information;

14        3. Transfer pathways; and

15        4. Public relations requests related to the program;

16        (e) Developing and distributing a specific catalog or similar publication  
17        describing available programs, services for inmates participating in the  
18        program, curriculum maps, and delivery options;

19        (f) Establishing and maintaining a companion website section to inform  
20        participating inmate's families, department partners, and community  
21        supporters about the campus programs;

22        (g) Managing partnership components pertaining to the educational status of  
23        participating inmates, including:

24        1. Initial college application completion and other educational records  
25        required for admission;

26        2. Academic records and materials to determine transfer credit and  
27        initial placement;

- 1        3. Free Application for Federal Student Aid (FAFSA) completion and
- 2        submission, including eligibility criteria and financial aid payment
- 3        options;
- 4        4. Facilitation of financial aid payments for tuition, books, and supplies
- 5        on behalf of the participating inmate, ensuring no direct
- 6        disbursements to the inmate;
- 7        5. Orientation for participating inmates each term addressing:
  - 8        a. College policies and procedures;
  - 9        b. Program requirements;
  - 10        c. FAFSA and payment plans;
  - 11        d. Code of student conduct and college student expectations; and
  - 12        e. Available support services;
- 13        6. Completion of graduation application and transfer enrollment if
- 14        desired;
- 15        7. Instructional materials that comply with the facility requirements of
- 16        the department; and
- 17        8. Quality assurance processes, including:
  - 18        a. Course evaluations;
  - 19        b. Performance of the participating inmate;
  - 20        c. Syllabi review; and
  - 21        d. Faculty observation;

22        (h) Providing and managing staffing related to the academic components of the

23        program, including:

- 24        1. Qualified and credentialed in-person and online instructors for
- 25        coursework; and
- 26        2. Admissions, financial aid, advising, online library, tutoring, veteran
- 27        support, transcript collection, and academic support services on-site at

the facility;

(i) Ensuring compliance with requirements of the Southern Association of Colleges and Schools Commission on Colleges and requirements of the

*(i) Providing graduation ceremonies on-site; and*

(k) Working with the department and external partners to match inmates who have completed the program with employers and collecting and reporting job placement and data transfer on an annual basis.

(4) The department and KCTCS shall negotiate the responsibility for the cost of licensing and certification examinations if required by an academic program offered in the facility.

12 ➔Section 3. KRS 196.281 is amended to read as follows:

13 (1) When a prisoner is released, the department shall issue to that prisoner, with the  
14 prisoner's consent, documents regarding all of the following:

15 (a) The prisoner's criminal history in Kentucky;

16 (b) The prisoner's institutional history, including all of the following:

17 1. Any record of major disciplinary violations;

25           5. The prisoner's work record prior to incarceration, including past  
26           employment and skills, to the extent known or verifiable by the  
27           department, and to the extent the department is technologically capable

1 of providing this information; and

2           6. The prisoner's institutional work record, including skills obtained  
3           through any job training or programming provided by the department;  
4           and

5 (c) Other information considered relevant by the department.

6 (2) When a prisoner is released, the department may, in conjunction with the  
7 Transportation Cabinet, issue to that prisoner an operator's license or personal  
8 identification card that is a voluntary travel ID document pursuant to KRS 186.417.

9 (3) In addition to the documents provided under subsections (1) and (2) of this section,  
10 the department shall issue a certificate of employability to a prisoner if all of the  
11 following apply:

12 (a) The prisoner achieved one (1) or both of the following:

### 13 1. While incarcerated: [ ]

14                   a. Successfully earned one (1) or more of the following:

15 *i.[a.] An educational credit pursuant to KRS 197.045(1)(a)2.;*

19                   b. Successfully completed the Kentucky Community and Technical  
20                   College System Prison Education Program pursuant to Section 1  
21                   of this Act; or

22 2. Prior to incarceration, earned a High School Equivalency Diploma, a  
23 high school diploma, a college degree, certification from a vocational or  
24 technical education program that the program was completed, or a  
25 diploma or degree from a correspondence postsecondary education  
26 program approved by the department;

27 (b) The prisoner received no major disciplinary violations during the year

1 immediately preceding his or her release; and

**2. The prisoner successfully completed the KCTCS Prison Education Program and received an academic certificate, diploma, or degree.**

7 (4) A certificate of employability issued pursuant to subsection (3) of this section shall:

8 (a) Be issued to the prisoner when he or she is released from a correctional

9 facility;

10 (b) Be on a form provided by the department;

11 (c) Be valid unless revoked by the department; and

12 (d) Not create relief from:

13 1. A requirement to register as a sex offender under KRS 17.510;

14 2. A driver's license, commercial driver's license, or probationary license

15 suspension, cancellation, or revocation;

16 3. A restriction on employment as a prosecutor or law enforcement officer;

17 or

18 4. The denial, ineligibility, or automatic suspension of a health care

19 professional's license due to a substance use disorder.

20 (5) (a) The department shall revoke the certificate of employability provided under

21 this section of any individual who is convicted of a felony after receiving a

22 certificate of employability.

23 (b) The department shall provide an individual whose certificate of employability

24 has been revoked under this subsection an opportunity to file a grievance

25 through the department's prisoner grievance system. The revocation of a

26 certificate of employability is effective when the individual is notified of the

27 revocation.

- 1 (c) The revocation of a certificate of employability does not affect the right of an  
2 employer to rely on the validity of the certificate of employability unless the  
3 employer knew before the individual was employed that the certificate of  
4 employability was fraudulent.
- 5 (6) An individual shall not intentionally state or otherwise represent that he or she has a  
6 valid certificate of employability issued by the department knowing that the  
7 statement or representation is false. An individual who violates this subsection shall  
8 be guilty of a Class B misdemeanor.
- 9 (7) Upon request, the department shall confirm whether a certificate of employability  
10 has been issued to a named individual and whether the certificate is valid at the time  
11 of the inquiry and at the time of the department's response to that inquiry.
- 12 (8) The department is not civilly liable for damages based upon its decision to issue or  
13 deny issuance of a certificate of employability to any prisoner or for revoking or  
14 failing to revoke a certificate of employability issued to any prisoner.
- 15 (9) (a) In a judicial or administrative proceeding alleging negligence or other fault, a  
16 certificate of employability issued to an individual under this section may be  
17 introduced as evidence of a person's due care in hiring, retaining, licensing,  
18 leasing to, admitting to a school or program, or otherwise transacting business  
19 or engaging in activity with the individual to whom the certificate of  
20 employability was issued if the person knew of the certificate at the time of  
21 the alleged negligence or other fault.  
22 (b) In any proceeding on a claim against an employer for negligent hiring, a  
23 certificate of employability issued to an individual under this section may be a  
24 defense for the employer as to the claim if the employer knew of the  
25 certificate at the time of the alleged negligence, except in cases where the  
26 employer knew or should have known the employee should not be hired for  
27 the position due to the nature of his or her history, including criminal history

1                   relevant to the claim.

2       (10) The department shall notify incoming prisoners of the possibility to earn a  
3                   certificate of employability.

4       (11) The department shall submit an annual report no later than September 1 of each  
5                   year to the Governor and to the Legislative Research Commission for referral to  
6                   the Interim Joint Committee on Licensing, Occupations, and Administrative  
7                   Regulations and the Interim Joint Committee on Judiciary[General Assembly],  
8                   which shall include:

9                   (a) The number of certificates of employability issued in the preceding twelve  
10                   (12) months;[  
11                   (b) The rate of recidivism among released prisoners previously issued certificates  
12                   of employability;[  
13                   (c) Any other information the department deems appropriate to include; and  
14                   (d) Beginning September 1, 2029, the data in subsection (7)(e) of Section 1 of  
15                   this Act.

16                   ➔Section 4. KRS 335B.020 is amended to read as follows:

17       (1) A[No] person shall not be disqualified from public employment[  
18                   person be disqualified] from pursuing, practicing, or engaging in any occupation for  
19                   which a license is required solely because of a:

20                   (a) Prior conviction of a crime, unless the crime for which the person was  
21                   convicted directly relates to the position of employment sought or the  
22                   occupation for which the license is sought; or

23                   (b) Finding that an applicant lacks good character or fails to meet any other  
24                   similar standard where a criminal conviction is the sole basis for the  
25                   finding.

26       (2) In determining if a conviction directly relates to the position of public employment  
27                   sought or the occupation for which the license is sought, the hiring or licensing

1 authority shall consider the:

2 (a) ~~[The]~~Nature and seriousness of the crime for which the individual was  
3 convicted and the passage of time since its commission;

4 (b) ~~[The]~~Relationship of the crime to the purposes of regulating the position of  
5 public employment sought or the occupation for which the license is sought;

6 and

7 (c) ~~[The]~~Relationship of the crime to the ability, capacity, and fitness required to  
8 perform the duties and discharge the responsibilities of the position of  
9 employment or occupation.

10 (3) *There shall be a rebuttable presumption for any occupational license that*  
11 *requires good moral character that the person applying for the license is of good*  
12 *moral character if, after the criminal conviction, the person obtains a certificate*  
13 *of employability pursuant to Section 3 of this Act and the certificate has not been*  
14 *revoked. This rebuttable presumption shall not apply if the conviction would*  
15 *qualify the individual as a registrant as defined in KRS 17.500.*

16 ➔Section 5. KRS 335B.030 is amended to read as follows:

17 (1) (a) If a hiring or licensing authority denies an individual a position of public  
18 employment solely because of the individual's prior conviction of a crime, the  
19 hiring or licensing authority shall notify the individual in writing of the  
20 following:

- 21 1. The grounds and reasons for the denial or disqualification;
- 22 2. That the individual has the right to a hearing conducted in accordance  
23 with KRS Chapter 13B, if written request for hearing is made within ten  
24 (10) days after service of notice;
- 25 3. The earliest date the person may reapply for a position of public  
26 employment or a license; and
- 27 4. That evidence of rehabilitation may be considered upon reapplication.

1 (b) Any party aggrieved by a final order issued by a hiring or licensing authority  
2 after a hearing under this subsection may appeal to Franklin Circuit Court in  
3 accordance with KRS Chapter 13B.

4 (2) (a) Except as provided in paragraph (b) of this subsection, a hiring or licensing  
5 authority shall not disqualify an individual from pursuing, practicing, or  
6 engaging in any occupation for which a license is required solely because of  
7 the individual's prior conviction of a crime, unless the authority provides the  
8 individual with a written notice that the authority has determined that the prior  
9 conviction may disqualify the person, demonstrates the connection between  
10 the prior conviction and the license being sought, and affords the individual  
11 an opportunity to be personally heard before the board prior to the board  
12 making a decision on whether to disqualify the individual. If the license is  
13 denied after the person was heard, the hiring or licensing authority shall notify  
14 the individual in writing of the following:

15 1. The grounds and reasons for the denial or disqualification;  
16 2. That the individual has the right to a hearing conducted in accordance  
17 with KRS Chapter 13B, if a written request for hearing is made within  
18 ten (10) days after service of notice;  
19 3. The earliest date the person may reapply for a license; and  
20 4. That evidence of rehabilitation may be considered upon reapplication.

21 (b) If an individual's prior conviction~~was for a Class A felony, a Class B felony,~~  
22 ~~or any felony offense that~~ would qualify the individual as a registrant as  
23 defined in~~[pursuant to]~~ KRS 17.500, there shall be a rebuttable presumption  
24 that a connection exists between the prior conviction and the license being  
25 sought.

26 (c) Any party aggrieved by a final order issued by a hiring or licensing authority  
27 after a hearing under this subsection may appeal to Franklin Circuit Court in

1 accordance with KRS Chapter 13B.

2 (3) Except as provided in subsection (2)(b) of this section, in any administrative  
3 hearing or civil litigation authorized under this section, the hiring or licensing  
4 authority shall carry the burden of proof on the question of whether the prior  
5 conviction directly relates to the position of employment sought or the occupation  
6 for which the license is sought.

7           ➔Section 6. The data collected pursuant to subsection (7)(e) of Section 1 of this  
8   Act shall be reported in compliance with subsection (11) of Section 3 of this Act  
9   beginning with the September 1, 2029, report submitted by the department.