

1 AN ACT relating to the Parole Board and declaring an emergency.

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

3 ➔Section 1. KRS 439.320 is amended to read as follows:

- 4 (1) (a) The Governor shall appoint a Parole Board consisting of nine (9) full-time  
5 members to be confirmed by the Senate in accordance with KRS 11.160.
- 6 (b) The Governor shall make each appointment from a list of three (3) names  
7 given to him or her by the Kentucky State Corrections Commission.
- 8 (c) Each member appointed to the board shall have had at least five (5) years of  
9 actual experience in the field of penology, correction work, law enforcement,  
10 sociology, law, education, social work, medicine, or a combination ***of those***  
11 ***fields***~~thereof~~, or have served at least five (5) years previously on the Parole  
12 Board.
- 13 (d) No more than six (6) board members shall be of the same political party.
- 14 (e) The board shall be attached to the Justice and Public Safety Cabinet for  
15 administrative purposes only. The department ~~of Corrections~~ shall provide  
16 any clerical, stenographic, administrative, and expert staff assistance the board  
17 deems necessary to carry out its duties.
- 18 (2) The Governor shall designate one (1) member as chairperson of the board. The  
19 member designated as chairperson shall serve in that capacity at the pleasure of the  
20 Governor or until his or her term expires.
- 21 (3) (a) The members of the board shall give full time to the duties of their office and  
22 shall receive necessary traveling expenses and a salary to be determined  
23 pursuant to KRS 64.640(2), except the chairperson of the board shall receive  
24 additional compensation of one thousand dollars (\$1,000) per year for his or  
25 her services.
- 26 (b) ***The members of the board shall serve for staggered terms of four (4) years***  
27 ***and until their successors are appointed and have qualified, so that no more***

1 than three (3) terms shall expire in a given year~~[The members of the board~~  
 2 ~~shall serve at the pleasure of the Governor, but for no more than four (4) years~~  
 3 ~~without reappointment]~~. Their successors shall **then** be appointed~~[thereafter]~~  
 4 as provided in this section. A vacancy occurring before expiration of the term  
 5 of office shall be similarly filled for the unexpired term.

6 (4) The organization of the board shall be determined by the chairperson and shall be  
 7 consistent with administrative regulations promulgated pursuant to KRS 439.340.  
 8 For policy and procedural matters, five (5) members shall constitute a quorum.

9 (5) Parole and final parole revocation hearings may be done by panels of the board,  
 10 subject to the following requirements:

11 (a) **If a two (2) member panel is utilized, both members of the panel shall agree**  
 12 **on a decision;**~~[A panel shall consist of not less than three (3) and not more~~  
 13 ~~than six (6) members; and]~~

14 (b) **If a three (3) member panel is utilized, two (2) of the three (3) members of**  
 15 **the panel shall agree on a decision; and**

16 (c) **If a panel of four (4) or more members is utilized, a majority of the panel**  
 17 **shall agree on a decision;**

18 **In all cases in which the required number of panel members are not in agreement**  
 19 **on a decision,**~~[All members of the panel shall agree on a decision or]~~ the matter  
 20 shall be referred to the full board.

21 (6) The Governor may not remove any member of the board except for disability,  
 22 inefficiency, neglect of duty, or malfeasance in office. Before removal, **the**  
 23 **Governor**~~[he or she]~~ shall give the member a written copy of the charges against  
 24 him or her and shall fix the time when he or she can be heard in his or her defense,  
 25 which shall not be less than ten (10) days **after receiving the written copy of the**  
 26 **charges against him or her**~~[thereafter]~~. Upon removal, the Governor shall file in  
 27 the office of the Secretary of State a complete statement of all charges made against

1 the member and the findings upon the charges~~[thereupon]~~ with a record of the  
2 proceedings.

3 ➔Section 2. 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) (a) Before granting the parole of any prisoner, the board shall consider the  
21 pertinent information regarding the prisoner, including the results of his or her  
22 most recent risk and needs assessment, and shall have him or her appear  
23 before it for interview and hearing. The board in its discretion may hold  
24 interviews and hearings for prisoners convicted of Class C felonies not  
25 included within the definition of "violent offender" in KRS 439.3401 and  
26 Class D felonies not included within the definition of "sex crime" in KRS  
27 17.500. The board in its discretion may request the parole board of another

1 state confining prisoners pursuant to KRS 196.610 to interview eligible  
2 prisoners and make a parole recommendation to the board. A parole shall be  
3 ordered only for the best interest of society and not as an award of clemency,  
4 and it shall not be considered a reduction of sentence or pardon. A prisoner  
5 shall be placed on parole only when arrangements have been made for his or  
6 her proper employment or for his or her maintenance and care, and when the  
7 board believes he or she is able and willing to fulfill the obligations of a law-  
8 abiding~~[law-abiding]~~ citizen.

9 **(b)** Notwithstanding any statute to the contrary, including KRS 440.330, when a  
10 prisoner is otherwise eligible for parole and the board has recommended  
11 parole for that prisoner for the reasons set forth in this subsection, the board  
12 may grant parole to any prisoner wanted as a fugitive by any other  
13 jurisdiction, and the prisoner shall be released to the detainer from that  
14 jurisdiction.~~[Such]~~ Parole under this paragraph shall not constitute a  
15 relinquishment of jurisdiction over the prisoner, and the board in all cases  
16 expressly reserves the right to return the prisoner to confinement in a  
17 correctional institution of the Commonwealth if the prisoner violates the terms  
18 of his or her parole.

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

24 (b) Except as provided in this section, the board shall promulgate~~[adopt]~~  
25 administrative regulations in accordance with KRS Chapter 13A with respect  
26 to the eligibility of prisoners for parole, the conduct of parole and parole  
27 revocation hearings and all other matters that come before it, or conditions to

1 be imposed upon parolees. Administrative regulations governing the  
2 eligibility of prisoners for parole shall be in accordance with professionally  
3 accepted ideas of correction and reform and may utilize in part objective,  
4 performance-based criteria and risk and needs assessment information. ~~;~~  
5 ~~however, nothing herein contained~~ This paragraph shall not preclude the  
6 board from utilizing its present administrative regulations in conjunction with  
7 other factors involved that would relate to the inmate's needs and the safety of  
8 the public.

9 (4) The board shall ensure that all sentenced felons who have one hundred eighty  
10 (180) or more ~~longer than ninety (90)~~ days remaining to serve in state penal  
11 institutions, halfway houses, reentry centers, and county jails are considered for  
12 parole not less than sixty (60) days prior to their parole eligibility date, and the  
13 department ~~of Corrections~~ shall provide the necessary assistance and information  
14 to the board in order for it to conduct timely parole reviews.

15 (5) (a) In addition to or in conjunction with each hearing conducted under subsection  
16 (2) of this section for any prisoner convicted of a Class A, B, or C felony or a  
17 Class D felony included within the definition of "sex crime" in KRS 17.500  
18 and prior to the granting of a parole to any such prisoner, the ~~Parole~~ board  
19 shall conduct a hearing of which the following persons shall receive not less  
20 than forty-five (45) nor more than ninety (90) days' notice: the  
21 Commonwealth's attorney who shall notify the sheriff of every county and the  
22 chief of police of every city and county in which the prisoner committed any  
23 Class A, B, or C felony or a Class D felony included within the definition of  
24 "sex crime" in KRS 17.500 for which he or she is imprisoned, and all  
25 identified victims of the crimes or the next of kin of any victim who is  
26 deceased.

27 (b) Notice to the Commonwealth's attorney shall be by mail, fax, or electronic

1 means at the discretion of the board, and shall be in a manner that ensures  
2 receipt at the Commonwealth's attorney's business office. Notices received by  
3 chiefs of police and sheriffs shall be posted in a conspicuous location where  
4 police employed by the department may see it. Notices shall be posted in a  
5 manner and at a time that will allow officers to make comment thereon to the  
6 ~~Parole~~ board.

7 (c) 1. Notice to victims or their next of kin shall be made, for prisoners  
8 incarcerated prior to July 15, 1986, by mail, fax, or electronic means at  
9 the discretion of the board, and shall be in a manner that ensures receipt  
10 by the Commonwealth's attorney, who shall forward the notice promptly  
11 to the victims or their next of kin at their last known address.

12 2. For prisoners incarcerated on or after July 15, 1986, notice to the victims  
13 or their next of kin shall be by mail from the ~~Parole~~ board to their last  
14 known address as provided by the Commonwealth's attorney to the  
15 ~~Parole~~ board at the time of incarceration of the prisoner.

16 3. For prisoners incarcerated prior to April 1, 2021, for a Class D felony  
17 included within the definition of "sex crime" in KRS 17.500, notice to  
18 the victims or their next of kin shall be in a manner that ensures receipt  
19 by the Commonwealth's attorney, who shall forward the notice promptly  
20 to the victims or their next of kin at their last known address.

21 4. For prisoners incarcerated on or after April 1, 2021, for a Class D felony  
22 included within the definition of "sex crime" in KRS 17.500, notice to  
23 the victims or their next of kin shall be by mail from the Parole Board to  
24 their last known address as provided by the Commonwealth's attorney to  
25 the ~~Parole~~ board at the time of incarceration of the prisoner.

26 (d) Notice to the victim or the next of kin of subsequent considerations for parole  
27 after the initial consideration shall not be sent if the victim or the next of kin

1 gives notice to the board that he or she no longer wants to receive ~~the~~<sup>[such]</sup>  
2 notices. The notice shall include the time, date, and place of the hearing  
3 provided for in this subsection, and the name and address of a person to write  
4 if the recipient of the notice desires to attend the hearing or to submit written  
5 comments.

6 (6) (a) Persons receiving notice as provided for in subsection (5) of this section may  
7 submit comments, in person or in writing, to the board upon all issues relating  
8 to the parole of the prisoner. The board shall read and consider all comments  
9 prior to making its parole decision~~[,]~~ if they are received by the board not less  
10 than seven (7) days before the date for the hearing. The board shall retain all  
11 comments in the prisoner's permanent Parole Board file, and shall consider  
12 them in conjunction with any subsequent parole decisions affecting the  
13 prisoner.

14 (b) In addition to officers listed in subsection (5) of this section, the crime victims  
15 or the next of kin of any victim who is deceased or who is disabled and cannot  
16 attend the hearing or the parent or legal guardian of any victim who is a minor  
17 may attend the hearing provided for in subsection (5) of this section and  
18 present oral and written comments upon all issues relating to the parole of the  
19 prisoner~~[,]~~ if they have advised the board, in writing received by the board not  
20 less than seven (7) days prior to the date set for the hearing, of their intention  
21 to attend the hearing. The board shall receive and consider all comments, shall  
22 make a record of them which it shall retain in the prisoner's permanent Parole  
23 Board file, and shall consider them in conjunction with any subsequent parole  
24 decision affecting the prisoner.

25 (c) Persons appearing before the~~[ Parole]~~ board pursuant to this subsection may  
26 elect to make their presentations outside of the presence of the prisoner.

27 (7) Victims of Class D felonies not included within the definition of "sex crime" in

- 1 KRS 17.500 may submit comments in person or in writing to the board upon all  
2 issues relating to the parole of a prisoner.
- 3 (8) Any hearing provided for in subsections (5), (6), and (7) of this section shall be  
4 open to the public unless the persons having a right to appear before the board as  
5 specified in those subsections request closure of hearing for reasons of personal  
6 safety, in which event the hearing shall be closed. The time, date, and location of  
7 closed hearings shall not be disclosed to the public.
- 8 (9) ~~Except as specifically set forth in this section, nothing in~~ This section shall ***not*** ~~be~~  
9 ~~deemed to~~ expand or abridge any existing rights of persons to contact and  
10 communicate with the ~~Parole~~ board or any of its members, agents, or employees,  
11 ***except as specifically set forth in this section.***
- 12 (10) The unintentional failure by the ~~Parole~~ board, sheriff, chief of police, or any of its  
13 members, agents, or employees or by a Commonwealth's attorney or any of his or  
14 her agents or employees to comply with any of the provisions of subsections (5),  
15 (6), and (8) of this section shall not affect the validity of any parole decision or give  
16 rise to any right or cause of action by the crime victim, the prisoner, or any other  
17 person.
- 18 (11) ~~An~~ ***No*** eligible sexual offender within the meaning of KRS 197.400 to 197.440  
19 shall ***not*** be granted parole unless he or she has successfully completed the Sexual  
20 Offender Treatment Program.
- 21 (12) Any prisoner who is granted parole after completion of the Sexual Offender  
22 Treatment Program shall be required, as a condition of his or her parole, to  
23 participate in regular treatment in a mental health program approved or operated by  
24 the department ~~of Corrections~~.
- 25 (13) When the board grants parole contingent upon completion of a program, the  
26 commissioner, or his or her designee, shall determine the most appropriate  
27 placement in a program operated by the department or a residential or

1 nonresidential program within the community approved by the department. If the  
2 department releases a parolee to a nonresidential program, the department shall  
3 release the parolee only if he or she will have appropriate community housing  
4 pursuant to KRS 439.3408.

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

8 (a) ~~A~~~~No~~ parole deferment greater than five (5) years shall ***not*** be ordered unless  
9 approved by a majority vote of the full board; and

10 (b) ~~A~~~~No~~ deferment shall ***not*** exceed ten (10) years, except for life sentences.

11 (15) When an order for parole is issued, it shall recite the conditions ***of the***  
12 ***order***~~[thereof]~~, which may include requiring the person to participate in a specific  
13 evidence-based program designed to reduce violence.

14 ➔Section 3. Notwithstanding Section 1 of this Act, for one of the Parole Board  
15 terms expiring in 2026, the immediate successor shall serve for a term of two years.

16 ➔Section 4. Whereas the terms of four members of the Parole Board will expire  
17 this year in rapid succession, and the continuity of operations of the Parole Board must be  
18 maintained, an emergency is declared to exist, and Sections 1 and 3 of this Act take effect  
19 upon its passage and approval by the Governor or upon its otherwise becoming a law.