

1 AN ACT relating to correctional services.

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

3 ➔Section 1. KRS 441.005 is amended to read as follows:

4 As used in this chapter, unless the context otherwise requires:

5 (1) *"Commissioner" means the commissioner of the Department of Corrections;*

6 (2) *"Department" means the Department of Corrections;*

7 (3) *"Holdover facility" means any detention facility housing prisoners for a maximum period of ninety-six (96) continuous hours and excluding times when a prisoner is released for a minimum of seven (7) hours for the purpose of working at his or her employment, attending an educational institution, or conducting other business pursuant to a court order, or when a prisoner is released for in court proceedings;*

13 (4) *"Jail"* means county jails and correctional or detention facilities, including correctional facilities as defined in KRS 67B.020 and juvenile detention facilities, operated by and under the supervision of any political subdivision;

16 (5) *"Jail personnel" means deputy jailers, matrons, cooks, and other food service personnel, and other jail employees involved in the supervision, custody, care, or treatment of prisoners in jails, but does not include maintenance or clerical personnel;}*

20 (2) *"Holdover" means any jail housing prisoners for a maximum period of ninety-six (96) continuous hours and excluding times when a prisoner is released for a minimum of seven (7) hours for the purpose of working at his or her employment, attending an educational institution, or conducting other business pursuant to a court order, or when a prisoner is released for in court proceedings;}*

25 (6){(3)} *"Prisoner"* means any person confined in jail pursuant to any code, ordinance, law, or statute of any unit of government and who is:

27 (a) Charged with or convicted of an offense;{or}

1 work, or program participation release; and

2 (b) Prisoners being held pretrial who have been approved by the court for
3 educational, work, or program participation release; and

4 (10) "Unit of government" means that unit of government including the United States
5 government whose law, statute, ordinance, or code a prisoner is charged with
6 violating. If a person is imprisoned for contempt of court, the state shall be
7 deemed the responsible unit of government.

8 → SECTION 2. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO
9 READ AS FOLLOWS:

10 (1) The department shall, for those counties that elect to operate a holdover facility,
11 promulgate administrative regulations in accordance with KRS Chapter 13A
12 establishing:

13 (a) Minimum standards for the operation of holdover facilities that shall
14 include but not be limited to:

- 15 1. Health and safety conditions;
- 16 2. Fire safety;
- 17 3. Operations, recordkeeping, and administration;
- 18 4. Curriculum of basic and continuing training for holdover personnel;
- 19 5. Custody, care, and treatment of prisoners;
- 20 6. Medical care; and
- 21 7. Holdover facility equipment, renovation, and construction;

22 (b) A holdover facility standards review process that shall:

- 23 1. Include the participation of persons knowledgeable of holdover facility
24 operations; and
- 25 2. Require standards to be reviewed at least once every two (2) years;

26 (c) The process for a county to convert a full-service jail or other jail that does
27 not house state prisoners to a holdover facility;

1 (d) That holdover facilities shall not be required to meet the minimum bed
2 requirements under Section 11 of this Act; and

3 (e) That the jailer of the county where the holdover facility is located, with the
4 assistance of his or her deputies, shall have custody, rule, and charge of the
5 holdover facility and all persons housed in the holdover facility.

6 (2) Administrative regulations promulgated under this section shall not be more
7 stringent than those promulgated for facilities that do not house state prisoners.

8 → SECTION 3. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO
9 READ AS FOLLOWS:

10 (1) Notwithstanding any other provision of law to the contrary, the department shall
11 contract with the fiscal court of a county or the regional jail authority to provide
12 correctional services to state prisoners in the jail or regional jail that stipulate to
13 the requirements of subsection (4) of this section and elect to house state
14 prisoners. A contract under this section shall not exceed a term of twenty-four
15 (24) months.

16 (2) (a) The per diem rate agreed to in a contract under this section shall at least
17 equal the actual cost of the jail or regional jail to provide correctional
18 services to state prisoners at the time of the execution of the contract.

19 (b) The cost of routine medical, dental, and psychological care shall be factored
20 into the actual cost described under paragraph (a) of this subsection.

21 (3) The department shall collaborate with the Finance and Administration Cabinet
22 to:

23 (a) Develop an audit and contract compliance system;

24 (b) Negotiate feasible, reasonable, and understandable contracts with jails and
25 regional jails; and

26 (c) Ensure both parties are complying with the terms of the contract.

27 (4) A contract under this section shall include terms which comply with at least the

1 *following:*

2 *(a) A person sentenced to a term of imprisonment for a felony shall be*
3 *considered a state prisoner;*

4 *(b) The department shall:*

5 *1. Perform semiannual inspections;*

6 *2. Be financially responsible for any maintenance medications and any*
7 *necessary medical, dental, or psychological care, beyond routine care*
8 *and diagnostic services, of state prisoners held in the jail or regional*
9 *jail; and*

10 *3. Provide the manner in which programming to state prisoners provided*
11 *under paragraph (c)7. of this subsection shall be evaluated and a fee*
12 *at least equal to the actual cost to be paid by the department to the jail*
13 *or regional jail for each program; and*

14 *(c) The jail or regional jail shall:*

15 *1. Operate in accordance with this chapter and administrative*
16 *regulations promulgated by the department;*

17 *2. Ensure that a:*

18 *a. Registered nurse, practical nurse, or advanced practice*
19 *registered nurse licensed under KRS Chapter 314; or*

20 *b. Physician or osteopath licensed under KRS Chapter 311;*
21 *is present at the jail or regional jail a portion of each day;*

22 *3. Ensure that mental health services are available to state prisoners;*

23 *4. Submit monthly reports to the department in an electronic format, on*
24 *forms supplied by the department, in accordance with KRS 441.105;*

25 *5. Provide a mattress for each state prisoner;*

26 *6. Provide state prisoners with access to exercise and recreational*
27 *activities, including at least one (1) hour a day of time outside of the*

state prisoner's cell when conditions permit;

7. a. Provide programming to state prisoners that shall include but not be limited to:

i. Substance abuse and detoxification treatment;

ii. Cognitive behavioral treatment;

iii. Reentry services; and

iv. An educational program which, upon successful completion, shall result in the issuance of a High School Equivalency Diploma.

b. Programming required under this subparagraph may be:

*i. **Provided onsite or offsite of the facility;***

ii. Conducted by jail or regional jail staff or through volunteers or contractors; and

8. Develop and conduct training and professional development for jail or regional jail staff.

16 ➔ SECTION 4. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO
17 READ AS FOLLOWS:

18 *Prisoners being held for a nonviolent or nonsexual misdemeanor conviction in a jail or*
19 *regional jail may be housed in a restricted custody center.*

20 ➔ SECTION 5. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO
21 READ AS FOLLOWS:

22 (1) (a) *Except for:*

23 1. A court-ordered transfer pursuant to Section 13 of this Act or KRS

24 441.540:

25 2. *Treatment for medical purposes under KRS 441.560:*

3. Transfers initiated by the department under Section 15 of this Act; and

4. Any other emergency circumstances, including but not limited to the

transfer of inmates who pose an imminent security concern or imminent risk to the safety of other inmates or jail personnel;
a jailer of a jail holding a prisoner convicted of a Class C or Class D felony shall not arrange to transfer that prisoner to another jail under his or her own authority, either permanently or temporarily, without first requesting permission to do so in writing from the commissioner or the commissioner's designee. Except as provided in paragraph (b) of this subsection, a transfer shall not occur prior to the commissioner's or commissioner's designee's affirmative response.

10 (b) If a prisoner is transferred to another jail due to an emergency, the jailer
11 shall submit documentation describing the reason for the transfer to the
12 commissioner or the commissioner's designee within twenty-four (24) hours
13 of the emergency transfer.

14 (2) The department shall establish procedures through the promulgation of
15 administrative regulations in accordance with KRS Chapter 13A to administer
16 this section.

17 ➔ SECTION 6. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO
18 READ AS FOLLOWS:

19 (1) (a) There is hereby established in the State Treasury a trust and agency
20 account to be known as the regional jail authority construction fund. The
21 fund shall consist of moneys received from state appropriations, gifts,
22 grants, and federal funds.

23 (b) *The fund shall be administered by the department.*

26 (d) Notwithstanding KRS 45.229, fund amounts not expended at the close of a
27 *fiscal year shall not lapse but shall be carried forward into the next fiscal*

1 year.

2 (2) (a) The department shall establish procedures by which a regional jail
3 authority established under KRS 441.800 may apply for funding of capital
4 construction of new facilities or expansions and improvements to existing
5 facilities to be considered for grants from the regional jail authority
6 construction fund.

7 (b) A regional jail authority established under KRS 441.800 may submit to the
8 department for consideration for funding from the regional jail authority
9 construction fund those projects that have received approval or tentative
10 approval from the Local Correctional Facilities Construction Authority
11 under Section 12 of this Act.

12 (c) 1. A regional jail authority established under KRS 441.800 shall submit
13 projects for consideration for grants from the regional jail authority
14 construction fund to the department on or before September 1, 2027,
15 and biennially thereafter.

16 2. A project submitted in a previous year that was not selected may be
17 resubmitted under a new application in order to be considered in a
18 future year.

19 (3) On or before October 1, 2027, and biennially thereafter, the department shall
20 submit to the Legislative Research Commission a list of all project grant requests
21 that meet the requirements under subsection (2)(b) of this section. The list shall,
22 at minimum, include the documentation required in Section 12 of this Act.

23 (4) The General Assembly shall make the final determination of which projects are
24 to be awarded grants from the regional jail authority construction fund under
25 this section.

26 ➔ SECTION 7. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO
27 READ AS FOLLOWS:

1 (1) (a) There is hereby established in the State Treasury a trust and agency
2 account to be known as the regional jail conversion fund. The fund shall
3 consist of moneys received from state appropriations, gifts, grants, and
4 federal funds.

5 (b) The fund shall be administered by the department.

6 (c) Amounts deposited in the fund shall be used for the purposes described in
7 this section.

8 (d) Notwithstanding KRS 45.229, fund amounts not expended at the close of a
9 fiscal year shall not lapse but shall be carried forward into the next fiscal
10 year.

11 (2) (a) The department shall provide a grant of one million dollars (\$1,000,000) to
12 each fiscal court that:

13 1. Establishes a new regional jail authority under KRS 441.800; or
14 2. Becomes a member of an existing regional jail authority.

15 (b) Payments shall be made when the department certifies that the county has
16 begun housing prisoners at the regional jail.

17 (c) The grant received under paragraph (a) of this subsection shall be deposited
18 in the county's jail fund.

19 (d) If a fiscal court consolidates and receives a grant under paragraph (a) of
20 this subsection, the fiscal court shall remain in the regional jail authority
21 for at least ten (10) years.

22 (e) 1. The department shall confirm at least annually that the fiscal court
23 remains in the regional jail authority as required under paragraph (d)
24 of this subsection.

25 2. If the department finds that the fiscal court is no longer a member of
26 that regional jail authority, the department shall require the fiscal
27 court to repay the grant on a pro rata basis to the amount of time

remaining on the ten (10) year period under paragraph (d) of this subsection.

(f) A fiscal court shall only be eligible to receive the grant under paragraph (a) of this subsection once.

(3) (a) The department shall provide a grant of five hundred thousand dollars (\$500,000) to each fiscal court that is a member of a regional jail authority as of the effective date of this Act that accepts a new regional jail authority member.

(b) The grant received under paragraph (a) of this subsection shall be deposited in the county's jail fund.

(c) A fiscal court that is a member of a regional jail authority as of the effective date of this Act shall only be eligible for the grant under paragraph (a) of this subsection once.

14 → Section 8. KRS 431.215 is amended to read as follows:

15 (1) If the judgment imposes a sentence for a felony conviction[of death or confinement
16 in the penitentiary, county jail or other institution], two (2) certified copies of the
17 judgment[thereof] shall be furnished immediately[forthwith] to the sheriff who
18 shall execute the same by delivering the defendant and a certified copy of the
19 judgment to the person in charge of the penitentiary, jail, or institution of
20 confinement and making a written return thereof in the office of the circuit clerk
21 within ten (10) days after the execution.

22 (2) (a) When the judgment imposes a sentence for a felony conviction[of death or
23 confinement in the penitentiary], the county responsible for the incarceration
24 of the prisoner as described in Section 9 of this Act[in which the prisoner is
25 incarcerated] shall receive from the State Treasury:

1. For counties that have entered into a contract with the Department of Corrections under Section 3 of this Act, a fee per day as determined by

the contract; or

2. For counties that have not entered into a contract with the Department of Corrections under Section 3 of this Act, a fee per day based on the county's actual cost to house and care for prisoners.

(b) The fee described in paragraph (a) of this subsection shall be paid:

1. Beginning on the day on which judgment was rendered and ending the day that the defendant is delivered to the penitentiary; *and*

2. If the sentence includes in whole or in part, the amount of time served prior to the judgment, beginning on the day the defendant was arrested for each calendar day the defendant was lodged in a county or regional jail.

(c) The fee shall be paid to the county treasurer for use for the incarceration of prisoners as provided in KRS 441.025.

→ Section 9. KRS 441.025 is amended to read as follows:

15 (1) The fiscal court of each county shall provide for the incarceration of prisoners
16 arrested in the county or sentenced or held by order of the courts in the county

17 (2) The fiscal court shall provide for the incarceration of prisoners by:

18 (a) Providing and maintaining a facility that complies with KRS 441.055;

19 (b) Providing and maintaining a safe, secure, and clean jail in the county; or that

20 complies with the health and life safety standards defined in KRS 441.055;

21 (c) 1. Contracting with another county ~~or a city~~ for the incarceration and care
22 of its prisoners; and

23 2. Providing for the transportation of prisoners, as provided for in KRS
24 441.505 and 441.510 including the provision of vehicles, drivers, and
25 guards.

26 (3) [Nothing in] This section shall not prohibit a county from:

(a) Providing **holdover** facilities *that meet the requirements of Section 2 of this*

1 Act for holding prisoners for limited periods of time and contracting with
2 another county ~~for a city~~ for longer periods of incarceration; or

3 **(b) Contracting with the department to provide correctional services to**
4 **prisoners serving sentences for felony offenses in accordance with Section 3**
5 **of this Act.**

6 (4) Any county may enter into an agreement pursuant to KRS 65.210 to 65.300 to
7 provide or to use jail facilities.

8 ➔ Section 10. KRS 441.045 is amended to read as follows:

9 (1) The county governing body shall prescribe rules for the government, security,
10 safety, and cleanliness of the jail and the comfort and treatment of prisoners,
11 provided ~~the~~such rules are consistent with state law. The county judge/executive
12 may inspect the jail at any reasonable time.

13 (2) Willful violation of the rules promulgated pursuant to subsection (1) of this section
14 shall be deemed a violation.

15 (3) Except as provided in subsections (4) and (5) of this section, the cost of providing
16 necessary medical, dental, and psychological care for indigent prisoners in the jail
17 shall be paid from the jail budget.

18 (4) The cost of providing necessary medical, dental, or psychological care for prisoners
19 of the United States government shall be paid as provided by contract between the
20 United States government and the county or as may otherwise be provided by
21 federal law.

22 (5) (a) The cost of providing:

23 **1. Maintenance medication;**

24 **2. Necessary medical, dental, or psychological care, beyond routine care;**
25 and

26 **3. Diagnostic services;**

27 for prisoners held pursuant to a contractual agreement with the state shall be

1 paid ~~as provided by contract between the state and county. The costs of~~
2 ~~necessary medical, dental, or psychological care, beyond routine care and~~
3 ~~diagnostic services, of prisoners held in the jail for which the county receives~~
4 ~~a per diem payment shall be paid~~ by the state.

5 (b) To the extent that federal law allows and federal financial participation is
6 available, for the limited purpose of implementing this section, the jail, the
7 department, or the department's designee is authorized to act on behalf of an
8 inmate for purposes of applying for Medicaid eligibility.

9 (6) The cost of providing necessary medical, dental, or psychological care for prisoners
10 held pursuant to a contractual agreement with another county ~~for a city~~ shall be
11 paid as provided by contract between the counties~~county or city and county~~.

12 (7) (a) When the cost of necessary medical, dental, or psychological care for a
13 prisoner exceeds one thousand dollars (\$1,000), as calculated by using the
14 maximum allowable costs to similar persons or facilities for the same or
15 similar services under the Kentucky Medical Assistance Program, the state
16 shall reimburse the county for that portion of the costs that exceeds one
17 thousand dollars (\$1,000). The reimbursement shall be subject to the
18 following terms and conditions:

19 1. The care is necessary as defined in subsection (10) of this section;
20 2. The prisoner is indigent as defined in subsection (8) of this section, or is
21 uninsured; and
22 3. ~~No~~ State reimbursement to the county for care provided by physicians,
23 hospitals, laboratories, or other health care providers shall not exceed
24 the maximum payments allowed to similar persons or facilities for the
25 same or similar services under the Kentucky Medical Assistance
26 Program, except as provided in subsection (11) of this section.

27 (b) A county may assign its ability to receive payment from the state under this

1 subsection to the person providing the medical, dental, or psychological care
2 to the prisoner, which assignment shall be accepted by the provider for the
3 purposes of submitting billing directly to the state. The state shall pay or deny
4 a claim submitted to it within ninety (90) days of receiving the claim. The
5 county shall include with the assignment the information required by
6 subsection (8) of this section necessary to qualify the prisoner as indigent. The
7 provider shall bill for any other public or private health benefit plan or health
8 insurance benefits available to the prisoner prior to billing the state under this
9 subsection, and shall bill the state prior to billing the county. The county shall
10 retain ultimate payment responsibility as established under subsection (3) of
11 this section, and the provider may bill the county for payment after the
12 expiration of ninety (90) days from the date the provider submitted the claim
13 to the state for payment if the claim remains unpaid at that time.

14 (8) (a) The determination of whether a prisoner is indigent shall be made pursuant to
15 KRS 31.120, and may be evidenced by the affidavit of indigency required by
16 that statute or the appointment of a public defender under that statute. The
17 prisoner shall not be considered indigent, in the case of prisoner medical care,
18 if:

- 19 1. The prisoner has funds on his or her inmate account to cover all or a
20 portion of his or her medical expenses;
- 21 2. The prisoner's medical expenses are covered on a medical insurance
22 policy; or
- 23 3. The prisoner has the private resources to pay for the use of the medical
24 facilities.

25 (b) Prisoners who are later determined not to have been indigent, or who at a time
26 following treatment are no longer indigent, shall be required to repay the costs
27 of payments made pursuant to this section to the unit of government which

1 made the payment.

2 (9) The terms and conditions relating to any determination of nonindigency and
3 demands for repayment shall be under the same terms and conditions as are
4 provided under KRS Chapters 31 and 431 relating to similar circumstances in the
5 program for defense of indigents by the public advocate.

6 (10) As used in [For the purposes of] this section, "necessary care" means care of a
7 nonelective nature that cannot be postponed until after the period of confinement
8 without hazard to the life or health of the prisoner.

9 (11) Any money appropriated for a given fiscal year to fund the state's obligation under
10 subsection (7) of this section which remains unspent at the end of the year shall not
11 lapse but shall be made available to satisfy, to the maximum extent possible, that
12 portion of each catastrophic claim made during said year above the threshold
13 amount for which the county did not receive state assistance pursuant to subsection
14 (7) of this section. In the event there is an insufficient surplus to satisfy said balance
15 of all such catastrophic claims which are made during that year, the state shall pay
16 to those qualified counties, on a per claim basis, an amount equal to each claim's
17 percentage of the total surplus. Should the surplus be sufficient to satisfy all such
18 catastrophic claims, the amount remaining, if any, shall not lapse but shall be
19 carried forward to the next fiscal year to be made available for future catastrophic
20 claims.

21 (12) Notwithstanding other provisions of this section to the contrary, a jail may impose a
22 reasonable fee for the use of jail medical facilities by a prisoner who has the ability
23 to pay for the medical care. These funds may be deducted from the prisoner's
24 inmate account. A prisoner shall not be denied medical treatment because he or she
25 has insufficient funds on his or her inmate account. This subsection shall not
26 preclude other recovery of funds as provided in this section.

27 (13) (a) Notwithstanding any other provision of this section to the contrary, a jail may

1 impose a reasonable fee for the use of jail medical facilities by a state prisoner
2 who has been placed in a jail pursuant to a contract with the department~~of~~
3 ~~Corrections~~ under KRS 532.100 or other statute, and who has the ability to
4 pay for medical care.

5 (b) Funds may be deducted from the state prisoner's inmate account at the jail.

6 (c) A state prisoner shall not be denied medical treatment because he or she has
7 insufficient funds in his or her inmate account.

8 (d) This subsection shall not preclude other recovery of funds as provided in this
9 section.

10 (e) This subsection does not authorize recovery of funds from a prisoner for
11 medical care which has been paid or reimbursed by the state pursuant to this
12 section.

13 (14) Except as provided in subsection (4) of this section, all payments for necessary
14 medical, dental, or psychological care for jail, regional jail, or holdover facility
15 prisoners shall be made at a rate not to exceed the Medicaid rate for the same or
16 similar services, which shall be paid within thirty (30) days under the provisions of
17 KRS 65.140 of receiving a claim from the health facility or provider for the item or
18 service. This subsection shall not obligate the Medicaid program to pay for services
19 provided to a prisoner.

20 (15) (a) A peace officer or correctional officer having custody of a person shall not
21 release the person from custody so that the person may receive treatment from
22 a health care facility or health care provider, except pursuant to an order
23 issued by a court of competent jurisdiction which specifically names the
24 person to receive treatment.

25 (b) A peace officer or correctional officer having custody of a person may take
26 the person to a health care facility or health care provider for the purpose of
27 receiving treatment if a correctional officer remains with the person during the

1 time the person is on the premises of the health care facility or health care
2 provider, unless the facility or provider consents to the absence of the officer.

3 (c) A county, urban-county, consolidated local government, charter county,
4 unified local government, jail, regional jail, holdover facility, local detention
5 center, or other local correctional facility shall not be responsible for paying
6 for the medical or other health care costs of a person who is released by a
7 court of competent jurisdiction, except where the release is for the purpose of
8 receiving medical or other health care services as evidenced by an order
9 requiring the person to return to custody upon completion of treatment.

10 (d) When a county, urban-county, consolidated local government, charter county,
11 unified local government, jail, regional jail, holdover facility, local detention
12 center, or other local correctional facility is responsible for paying for medical
13 or other health care costs under paragraph (c) of this subsection, payment
14 shall be made only at the Medicaid rate for same or similar services.

15 (e) As used in ~~For the purposes of~~ this subsection, "correctional officer"
16 includes a:
17 1. Jailer or deputy jailer;
18 2. Director or other person in charge of a local detention center, local
19 correctional facility, or regional jail; and
20 3. Correctional officer employed by a local detention center, local
21 correctional facility, or regional jail.

22 → Section 11. KRS 441.420 is amended to read as follows:

23 (1) ~~A~~^N political subdivision of this Commonwealth, combination of subdivisions, or
24 regional jail authority shall not build a new local correctional facility unless:
25 (a) The facility meets the approval or complies with the standards and
26 administrative regulations of the department promulgated under this
27 chapter^[pursuant to KRS 441.055]:

1 (b) The construction results in a new facility with:

2 1. A minimum capacity of one hundred fifty (150) prisoner beds; or

3 2. If a larger facility is needed, more than one hundred fifty (150) prisoner

4 beds in fifty (50) bed increments; and

5 (c) Construction of the local correctional facility is approved by the construction

6 authority.

7 (2) Final authority for approval of plans for the construction of a local correctional

8 facility, or an addition to a local correctional facility shall rest with the construction

9 authority.

10 (3) The department shall pay for the architectural plans and engineering services

11 associated with any new local correctional facility approved or tentatively approved

12 by the construction authority.

13 (4) The department may promulgate administrative regulations in accordance with

14 KRS Chapter 13A to create a fee schedule for architectural plans and engineering

15 services required for the construction of local correctional facilities. A sample fee

16 schedule for architectural plans and engineering services may be developed by a

17 committee consisting of department personnel, architects, and construction

18 managers.

19 ➔ Section 12. KRS 441.430 is amended to read as follows:

20 (1) Any political subdivision, or combination of subdivisions, desiring to build a local

21 correctional facility shall make application, in writing, to the department and the

22 construction authority for approval of the plans for the local correctional facility not

23 less than ninety (90) days before the advertising for bids for construction of the

24 facility, or if bids are not to be let, ninety (90) days before the construction

25 commences. The application shall include documentation of the items required by

26 subsection (3) of this section.

27 (2) The department's jail consultants shall review the application and within thirty (30)

1 days of the department's receipt of the application, make a recommendation to the
2 construction authority. The construction authority shall make a decision within
3 sixty (60) days after the department's jail consultants make their recommendation.
4 The construction authority may delay a final decision on the construction of any
5 new local correctional facility if the construction authority determines that it has
6 insufficient information upon which to base a decision. If the construction authority
7 determines that it has insufficient information upon which to base a decision, a final
8 decision shall be delayed but shall be made within sixty (60) days after receipt of
9 the information required by the construction authority. Construction shall not
10 commence until the requisite approval is obtained.

11 (3) The construction authority shall not approve the construction of a local correctional
12 facility unless the political subdivision or combination of subdivisions desiring to
13 build a local correctional facility proves to the satisfaction of the construction
14 authority that:

15 (a) The construction of a new local correctional facility is necessary;

16 (b) The construction of a new local correctional facility with the number of beds
17 proposed is necessary;

18 (c) The political subdivision or combination of political subdivisions has
19 sufficient bonding and revenue sources to pay the bonded indebtedness of the
20 proposed local correctional facility;

21 (d) The number and sources of prisoners for the local correctional facility is
22 sufficient to maintain the financial viability of the local correctional facility;

23 (e) The projected operating costs for the local correctional facility are appropriate
24 to maintain the financial viability of the local correctional facility;

25 (f) The sources of revenue are sufficient to pay, in addition to the bonded
26 indebtedness, the operation costs and maintenance for the local correctional
27 facility;

1 (g) If applicable, there are contracts or interlocal cooperation agreements
2 specifying details for sharing the liability for the costs of paying the bonded
3 indebtedness and the operation costs for the local correctional facility;

4 (h) If applicable, there are contracts or interlocal cooperation agreements
5 specifying details for the management and operation of the local correctional
6 facility; and

7 (i) All information has been provided that the construction authority required
8 pursuant to administrative regulation.

9 (4) (a) Upon approval *or tentative approval* by the construction authority of the new
10 local correctional facility, or the expansion of an existing correctional facility,
11 architectural plans shall be submitted to the department for approval. The
12 department's jail consultants shall review the architectural plans and within
13 sixty (60) days notify the applicant and the construction authority of their
14 findings.

15 (b) The department's jail consultants may delay final approval of the architectural
16 plans if the jail consultants determine the architectural plans for the facility do
17 not comply with administrative regulations of the department promulgated
18 pursuant to KRS 441.055.

19 (c) If the department determines that it has insufficient information upon which to
20 make a decision, a final decision shall be delayed but shall be made within
21 sixty (60) days after receipt of the information requested.

22 (d) Construction shall not commence until the requisite approvals have been
23 obtained.

24 (e) If approval is denied by the department's jail consultants, the political
25 subdivision or combination of subdivisions requesting the construction or
26 expansion of a local correctional facility may appeal the decision to the
27 construction authority.

1 (5) (a) A regional jail authority that meets all of the requirements under subsection
2 (3) of this section, except for the requirement listed under subsection (3)(c)
3 of this section, shall receive tentative approval subject to receiving funding
4 from the regional jail authority construction fund under Section 6 of this
5 Act or other funding.

6 (b) Tentative approval shall expire after forty-eight (48) months unless the
7 funding required under paragraph (a) of this subsection is secured by the
8 regional jail authority.

9 ➔Section 13. KRS 441.520 is amended to read as follows:

10 (1) As used in this section:

11 (a) "Originating jail" means a jail that has been ordered by the court to transfer
12 prisoners to a receiving jail; and

13 (b) "Receiving jail" means a jail that has been ordered by the court to receive
14 prisoners from an originating jail.

15 (2) (a) If there is danger or probable danger that any or all prisoners confined in a jail
16 will be removed from the jail by violence, the Circuit Judge shall order the
17 transfer of those prisoners to the jail of the nearest county in which the jail is
18 secure and the prisoners can be safely kept. The order shall include evidence
19 of the danger or probable danger to the prisoners. When any such order is
20 made, and a copy is given to the jailer of the receiving jail, he or she shall
21 receive all such prisoners. If a Circuit Judge is not in the county, the order of
22 transfer may be made by a District Judge, who shall deliver the order, or a
23 copy thereof, to the circuit clerk for revision by the Circuit Court.

24 (b) Except as provided in paragraph (a) of this subsection, before ordering the
25 transfer of a prisoner from an originating jail to a receiving jail, a Circuit
26 Judge shall receive a written agreement between the originating and receiving
27 jails. The written agreement shall specify that the receiving jail has agreed to

1 house the prisoner or prisoners and that the originating jail shall pay the
2 prisoner's expenses in accordance with subsection (3)(a) and (b) of this
3 section. If the Circuit Judge orders the transfer before receiving the written
4 agreement, the receiving jail shall not be required to house the prisoner nor
5 shall the receiving jail's jailer be subject to contempt for failing to obey the
6 transfer order.

7 (3) In the event a prisoner is transferred from an originating jail to a receiving jail, the
8 receiving jail shall:

9 (a) Charge no more than ~~three (3) times the per diem amount determined~~
10 ~~according to KRS 431.215(2). However, the per diem rate charged by the~~
11 ~~receiving jail shall not exceed~~ the combined cost of the prisoner's room and
12 board, administrative processing or booking, and any evidence-based
13 programming the prisoner receives;

14 (b) Perform only medically necessary procedures on the prisoners, as determined
15 by the receiving jail's medical provider. The originating jail shall be
16 financially responsible for these medically necessary procedures. If a prisoner
17 is sent out of the receiving jail for more than eight (8) hours for a medically
18 necessary procedure, the originating jail shall be financially responsible for all
19 receiving jail personnel costs related to the prisoner's transportation until the
20 prisoner is returned to the receiving jail; and

21 (c) Be no more than two (2) geographically contiguous judicial districts away
22 from the originating jail.

23 (4) The sheriff of the county of the originating jail shall be responsible for the
24 transportation of any prisoners transferred pursuant to this section. For those
25 prisoners transferred pursuant to subsection (2)(a) of this section, the sheriff shall
26 transfer the prisoners in accordance with KRS 441.530(2)(a).

27 (5) To ensure the ongoing safety and security of the prisoners, any Circuit Judge who

1 orders the transfer of a prisoner from an originating jail to a receiving jail shall
2 review his or her transfer orders every sixty (60) days, with input from the
3 originating and receiving jails.

4 ➔Section 14. KRS 441.810 is amended to read as follows:

5 (1) **(a)** The regional jail authority shall be composed of members appointed by the
6 county judges/executive of the respective counties within the authority and the
7 jailer **of each county within the authority**~~of the county where the regional
8 jail is located~~.

9 **(b)** The county judge/executive of the most populous county shall appoint three
10 (3) members to the authority, and the remainder of the county
11 judges/executive shall each appoint two (2) members.

12 (2) Members of the authority shall serve four (4) year terms, except that one (1) of each
13 county judge/executive's original appointees shall serve a two (2) year term.
14 Members of the authority shall not be compensated for their service but may be
15 reimbursed for expenses actually incurred.

16 ➔Section 15. KRS 532.100 is amended to read as follows:

17 (1) As used in this section, "jail" means a "jail" or "regional jail" as defined in KRS
18 441.005.

19 (2) When an indeterminate term of imprisonment is imposed, the court shall commit
20 the defendant to the custody of the Department of Corrections for the term of his or
21 her sentence and until released in accordance with the law.

22 (3) When a definite term of imprisonment is imposed, the court shall commit the
23 defendant to a jail for the term of his or her sentence and until released in
24 accordance with the law.

25 (4) When a sentence of death is imposed, the court shall commit the defendant to the
26 custody of the Department of Corrections with directions that the sentence be
27 carried out according to law.

1 (5) (a) Notwithstanding[The provisions of] KRS 500.080(5)[notwithstanding], if a
2 Class D felon is sentenced to an indeterminate term of imprisonment of five
3 (5) years or less, he or she shall serve that term in a jail that has a contract
4 with the Department of Corrections to house state prisoners as described in
5 Section 3 of this Act[in a county in which the fiscal court has agreed to house
6 state prisoners]; except that, when an indeterminate sentence of two (2) years
7 or more is imposed on a Class D felon convicted of a sexual offense
8 enumerated in KRS 197.410(1), or a crime under KRS 17.510(12) or (13), the
9 sentence shall be served in a state institution[. Counties choosing not to
10 comply with the provisions of this paragraph shall be granted a waiver by the
11 commissioner of the Department of Corrections].

12 (b) Notwithstanding[The provisions of] KRS 500.080(5)[notwithstanding], a
13 Class D felon who received a sentence of more than five (5) years for
14 nonviolent, nonsexual offenses, but who currently has less than five (5) years
15 remaining to be served, may serve the remainder of his or her term in a jail
16 that has a contract with the Department of Corrections to house state
17 prisoners as described in Section 3 of this Act[in a county in which the fiscal
18 court has agreed to house state prisoners].

19 (c) 1. Notwithstanding[The provisions of] KRS 500.080(5)[notwithstanding],
20 and except as provided in subparagraph 2. of this paragraph, a Class C
21 or D felon with a sentence of more than five (5) years who is classified
22 by the Department of Corrections as community custody shall serve that
23 term in a jail that has a contract with the Department of Corrections to
24 house state prisoners as described in Section 3 of this Act[in a county
25 in which the fiscal court has agreed to house state prisoners] if:
26 a. Beds are available in the jail;
27 b. State facilities are at capacity; and

1 bed at the receiving jail or state institution.

2 c. State prisoners who are approved for transfer to a Department of

3 Corrections facility for necessary medical treatment and care

4 pursuant to KRS 441.560 shall not be transferred to another jail.

5 d. State prisoners enrolled in a Department of Corrections approved

6 program pursuant to KRS 197.045 shall not be transferred.

7 e. State prisoners awaiting trial in the county they are being housed

8 shall not be transferred.

9 f. Jails that receive state prisoners pursuant to this subparagraph shall

10 be responsible for the transportation of those prisoners to the jail.

11 2. If the Department of Corrections directs the transfer of a state prisoner

12 pursuant to subparagraph 1. of this paragraph, the jailer has fourteen

13 (14) days to transfer the state prisoner. If the jailer refuses to release

14 custody of the state prisoner to the receiving jail within fourteen (14)

15 days, the department shall reduce the per diem for the jail for an amount

16 equal to the per diem of that prisoner for each day the jailer refuses to

17 comply with the direction.

18 3. If the Department of Corrections directs the transfer of a state prisoner

19 pursuant to subparagraph 1. of this paragraph, the jailer of the receiving

20 jail shall accept the transfer and transport the state prisoner in

21 accordance with subparagraph 1.f. of this paragraph. If, after receiving a

22 copy of the direction, the jailer refuses to accept and transport the state

23 prisoner, the Department of Corrections shall reduce the per diem for the

24 receiving jail for an amount equal to the per diem of that prisoner for

25 each day the jailer refuses to comply with the direction.

26 4. If a jail has a vacant bed and has a Class C or Class D felon who, based

27 on the Department of Corrections classification system, is eligible to be

1 housed in that vacant bed, the department may direct the jail to transfer
2 the state prisoner to that bed. If the jailer refuses to transfer the state
3 prisoner to the vacant bed, the Department of Corrections shall reduce
4 the per diem for the jail for an amount equal to the per diem of that
5 prisoner for each day the jailer refuses to comply with the direction.

6. The per diem reduced pursuant to subparagraph 2., 3., or 4. of this
7 paragraph shall be enforced by withholding the amount from the per
8 diem paid to the jail pursuant to KRS 431.215(2).

9. 6. If a jail that is at or over one hundred fifty percent (150%) capacity
10 requests the transfer of a specified number of state prisoners, the
11 Department of Corrections may, if vacant beds are available at other
12 jails, direct the transfer in accordance with subparagraph 1. of this
13 paragraph.

14 (g) If a jail has vacant beds in an area of the jail usually reserved for state
15 prisoners, the jail may house county prisoners in that area.

16 (6) (a) The jailer of a county in which a Class D felon or a Class C felon is
17 incarcerated may request the commissioner of the Department of Corrections
18 to incarcerate the felon in a state corrections institution if the jailer has
19 reasons to believe that the felon is:
20 1. An escape risk;1,2
21 2. A danger to himself or herself or other inmates;1,2
22 3. An extreme security risk;1,2 or
23 4. Needs protective custody beyond that which can be provided in a jail.
24 (b) The commissioner of the Department of Corrections shall evaluate the request
25 and transfer the inmate if he or she deems it necessary. If the commissioner
26 refuses to accept the felon inmate, and the Circuit Judge of the county that has
27 jurisdiction of the offense charged is of the opinion that the felon cannot be

1 safely kept in a jail, the Circuit Judge, with the consent of the Governor, may
2 order the felon transferred to the custody of the Department of Corrections.

3 (7) [(a)] Class D felons and Class C felons serving their time in a jail shall be
4 considered state prisoners, and, except as provided in subsection (5)(f) of this
5 section, the Department of Corrections shall pay the jail in which the prisoner is
6 incarcerated a per diem amount determined according to Section 3 of this Act[KRS
7 431.215(2)]. For other state prisoners and parole violator prisoners, the per diem
8 payments shall also begin on the date prescribed in KRS 431.215(2), except as
9 provided in subsection (5)(f) of this section[.]

10 (b) 1. The per diem amount paid to the jail shall be increased by two dollars
11 (\$2) per day of program attendance for those inmates enrolled in and
12 attending evidence based programs approved by the department and that do
13 not require instructors to have completed any postsecondary education.

14 2. The per diem amount paid to the jail shall be increased by ten dollars (\$10)
15 per day of program attendance for those inmates enrolled in and attending
16 evidence based programs approved by the department and that require
17 instructors to have completed particular postsecondary courses.

18 (e) Any amount beyond the base per diem paid under paragraph (a) of this
19 subsection that is paid under a contract to the jail for an inmate's attendance at
20 an evidence based program shall be credited toward the ten dollars (\$10)
21 increase in per diem required under paragraph (b) of this subsection].

22 (8) State prisoners, excluding the Class D felons and Class C felons qualifying to serve
23 time in jails, shall be transferred to the state institution within forty-five (45) days
24 of final sentencing.

25 (9) (a) Class D felons eligible for placement in a jail may be permitted by the warden
26 or jailer to participate in any approved community work program or other
27 form of work release with the approval of the commissioner of the

1 Department of Corrections.

2 (b) The authority to release an inmate to work under this subsection may be
3 exercised at any time during the inmate's sentence, including the period when
4 the court has concurrent authority to permit work release pursuant to KRS
5 439.265.

6 (c) The warden or jailer may require an inmate participating in the program to
7 pay a fee to reimburse the warden or jailer for the cost of operating the
8 community work program or any other work release program. The fee shall
9 not exceed the lesser of fifty-five dollars (\$55) per week or twenty percent
10 (20%) of the prisoner's weekly net pay earned from the community work
11 program or work release participation. In addition, the inmate may be required
12 to pay for any drug testing performed on the inmate as a requirement of the
13 community work program or work release participation.

14 (d) This subsection shall not apply to an inmate who:

15 1. Is not eligible for work release pursuant to KRS 197.140;

16 2. Has a maximum or close security classification as defined by
17 administrative regulations promulgated by the Department of
18 Corrections;

19 3. Is subject to the provisions of KRS 532.043; or

20 4. Is in a reentry center as defined in KRS 441.005.

21 ➔ Section 16. KRS 196.030 is amended to read as follows:

22 (1) The department shall, unless otherwise provided by law, exercise all functions of
23 the state in relation to:

24 (a) Management of penal, reform, and correctional institutions;

25 (b) Supervision of probation and parole;

26 (c) The giving of assistance to other departments, agencies, and institutions of the
27 state and federal government when requested by performing services in

1 conformity with this section;

2 (d) Acting as the agent of the federal government in matters of mutual concern,
3 and in the administration of any federal funds granted to the state to aid in the
4 performance of any function of this department; and

5 (e) Administration and enforcement of the provisions of KRS Chapter 441
6 relating to the development and enforcement of jail standards, training of
7 jailers and jail personnel, and jail planning and construction.

8 (2) Notwithstanding any other provision of law[provisions] to the contrary, the
9 Department of Corrections may contract with a county fiscal court or local or
10 regional correctional authority to house misdemeanants and persons awaiting trial
11 or sentencing.

12 (3) Notwithstanding any other provision of law to the contrary, the Department of
13 Corrections shall contract with the county fiscal court or regional jail authority to
14 provide correctional services to state prisoners in a jail or regional jail in
15 accordance with Section 3 of this Act.

16 (4) ~~The provisions of~~ This section shall not apply to any institution, home, or agency
17 which does not receive aid from the state, a county, or municipality.

18 ➔ Section 17. KRS 441.052 is amended to read as follows:

19 (1) When a unit of local government or regional jail authority facilitates medical care
20 for a prisoner confined in the jail, holdover facility, or regional jail who has not
21 been convicted as a felon and who holds a policy, contract, or certificate of
22 insurance coverage in any form, the insurer shall be primary for payment of
23 medically necessary health care benefit claims provided the following conditions
24 are met:

25 (a) The reimbursement shall be for medical, dental, or psychological claims that
26 are covered benefits under the terms and conditions of the health benefit plan
27 held by the prisoner:

1 (b) The reimbursement shall be applied under the terms and conditions of the
2 health benefit plan and in the same manner as though the insured were not a
3 prisoner; and

4 (c) All premiums for the health benefit plan are current.

5 (2) If the unit of local government, combination of units of local government, or
6 regional jail authority has contracted with the Department of Corrections under the
7 Department of Corrections' contract for medical, dental, or psychological care
8 access, or drugs, medicines, or pharmaceutical services, then the rights of the local
9 government, combination of local governments, or regional jail authority shall be
10 subrogated to the contract provider of such services to the Department of
11 Corrections.

12 (3) If the unit of local government, combination of units of local government, or
13 regional jail authority has, with the approval of the Department of Corrections,
14 contracted with another pharmaceutical services provider, then the rights of the
15 local government, combination of local governments, or regional jail authority shall
16 be subrogated to the contract provider of medical, dental, or psychological care to
17 the local jail for access to drugs, medicines, or pharmaceutical services to the unit
18 of local government, combination of units of local government, or regional jail
19 authority.

20 (4) If a prisoner has been transferred from a local jail, regional jail, or holdover to the
21 Department of Corrections for medical care pursuant to KRS 441.560, then the
22 contract provider of drugs and pharmaceutical services or the contract provider of
23 medical, dental, or psychological care shall be subrogated to the provider of such
24 services to the Department of Corrections.

25 ➔Section 18. KRS 441.053 is amended to read as follows:

26 (1) Except as provided in subsection (2) of this section, each jail, regional jail, holdover
27 **facility**, or other correctional facility owned or operated by a unit of local

1 government, combination of units of local government, or regional jail authority
2 shall utilize the Department of Corrections' contract pharmacy plan.

3 (2) (a) Except as provided in paragraph (b) of this subsection, the Department of
4 Corrections shall, on a yearly basis, waive the requirement of subsection (1)
5 of this section if the unit of local government, combination of units of local
6 government, or regional jail authority proves to the Department of Corrections
7 that the unit of local government, combination of units of local government,
8 or regional jail authority has contracted with another vendor and that:

9 1. The prescription plan covers pharmacy services, drugs, and medicine in
10 a manner which is equal to or superior to the Department of Corrections'
11 contract pharmacy plan; and

12 2. The cost of the prescription plan is equal to or less in total cost,
13 including the product cost and all other costs associated with the
14 delivery of the drugs, than the Department of Corrections' contract
15 pharmacy plan.

16 (b) If a unit of local government, combination of units of local government, or
17 regional jail authority contracts with a private provider of comprehensive
18 health services for inmates, then that private provider may elect not to use the
19 Department of Corrections' contract pharmacy plan and a waiver under this
20 subsection shall not be required.

21 (3) Except as provided in subsection (4) of this section, each jail, regional jail, holdover
22 facility, or other correctional facility owned or operated by a unit of local
23 government, combination of units of local government, or regional jail authority
24 shall utilize the Department of Corrections' contract medical, dental, and
25 psychological care access plan, and the administrative service fee for the plan shall
26 be paid by the Department of Corrections subject to the limits of 2007 Ky. Acts
27 ch. 128, sec. 5.

- 1 (4) The Department of Corrections may, on a yearly basis, waive the requirement of
2 subsection (3) of this section if the unit of local government, combination of units
3 of local government, or regional jail authority proves to the Department of
4 Corrections that the unit of local government, combination of units of local
5 government, or regional jail authority has contracted with another vendor and that:
6 (a) The medical, dental, and psychological care access plan provides services and
7 access which is equal to or superior to the Department of Corrections' contract
8 medical, dental, and psychological care access plan; and
9 (b) The cost of the medical, dental, and psychological care access plan is equal to
10 or less in cost than the Department of Corrections' contract medical, dental,
11 and psychological care access plan.
- 12 (5) A unit of local government, combination of units of local government, or regional
13 jail authority may appeal a decision of the Department of Corrections denying a
14 waiver under subsection (2) or (4) of this section to the secretary of justice and
15 public safety.
- 16 (6) ~~A[No]~~ program specified in this section shall not require or permit reimbursement
17 at a rate in excess of the Kentucky Medicaid program for the same or similar
18 services or products but may permit a lesser rate of reimbursement.

19 ➔Section 19. KRS 441.560 is amended to read as follows:

- 20 (1) When a prisoner in a jail, regional jail, or holdover facility is injured, is or becomes
21 sick or ill, or requires specialized medical care or long-term medical care which is
22 not available at the local jail, the jailer or other person in charge of the jail, regional
23 jail, or holdover facility may request that the commissioner of the department, or
24 the commissioner's designee in writing, transfer the prisoner to a facility operated
25 by the department or under contract to the department for the provision of necessary
26 medical treatment and care.
- 27 (2) The commissioner, or the commissioner's designee in writing, may authorize the

1 transfer of the prisoner to a facility operated by the department or under contract to
2 the department for the length of time necessary to secure medical treatment and
3 care for the prisoner. Following medical care and treatment the prisoner shall be
4 returned to the jail, regional jail, or holdover **facility**.

5 (3) If the commissioner or the commissioner's designee, in writing, authorizes the
6 transfer of the prisoner to a facility operated by the department or under contract to
7 the department, then the department shall pay:

8 (a) The costs of transfer to and from the department's facilities;

9 (b) The room, board, and related costs for the prisoner while the prisoner is in the
10 custody of the department; and

11 (c) The costs for medical care, treatment, medicines, and supplies for the prisoner
12 while the prisoner is in the custody of the department.

13 (4) The department shall have no legal duty to transfer any prisoner to the department
14 for medical treatment and care. The decision of the commissioner or the
15 commissioner's designee, in writing, whether or not to accept a prisoner for transfer
16 to the department shall be subject to appeal to the secretary of justice and public
17 safety.

18 (5) The department shall promulgate administrative regulations **in accordance with**
19 **KRS Chapter 13A** relating to the transfer of prisoners to the department for medical
20 treatment and care.

21 (6) When a prisoner is transferred to the department for medical care and treatment, the
22 jailer or other person in charge of the jail, regional jail, or holdover **facility** shall
23 notify the following persons of the reason for the transfer, the fact of the transfer,
24 and the general reasons for the transfer:

25 (a) The prisoner's next of kin;

26 (b) The prisoner's attorney of record;

27 (c) The Commonwealth's attorney or county attorney, as appropriate; and

