

1 AN ACT relating to cycchlorphine.

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

3 ➔Section 1. KRS 218A.010 is amended to read as follows:

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

- 5 (1) "Administer" means the direct application of a controlled substance, whether by  
6 injection, inhalation, ingestion, or any other means, to the body of a patient or  
7 research subject by:
- 8 (a) A practitioner or by his or her authorized agent under his or her immediate  
9 supervision and pursuant to his or her order; or
- 10 (b) The patient or research subject at the direction and in the presence of the  
11 practitioner;
- 12 (2) "Anabolic steroid" means any drug or hormonal substance chemically and  
13 pharmacologically related to testosterone that promotes muscle growth and includes  
14 those substances classified as Schedule III controlled substances pursuant to KRS  
15 218A.020 but does not include estrogens, progestins, and anticosteroids;
- 16 (3) "Cabinet" means the Cabinet for Health and Family Services;
- 17 (4) "Carfentanil" means any substance containing any quantity of carfentanil, or any of  
18 its salts, isomers, or salts of isomers;
- 19 (5) "Certified community based palliative care program" means a palliative care  
20 program which has received certification from the Joint Commission;
- 21 (6) "Child" means any person under the age of majority as specified in KRS 2.015;
- 22 (7) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical  
23 and geometric isomers, and salts of isomers;
- 24 (8) "Controlled substance" means methamphetamine, or a drug, substance, or  
25 immediate precursor in Schedules I through V and includes a controlled substance  
26 analogue;
- 27 (9) ~~[(a)]~~"Controlled substance analogue~~[,]~~";



1        *any of its salts, isomers, or salts of isomers;*

2        (12) "Dispense" means to deliver a controlled substance to an ultimate user or research  
3        subject by or pursuant to the lawful order of a practitioner, including the packaging,  
4        labeling, or compounding necessary to prepare the substance for that delivery;

5        (13)~~(12)~~ "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or  
6        V controlled substance to or for the use of an ultimate user;

7        (14)~~(13)~~ "Distribute" means to deliver other than by administering or dispensing a  
8        controlled substance;

9        (15)~~(14)~~ "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of  
10       administration available as a single unit;

11       (16)~~(15)~~ "Drug" means:

12       (a) Substances recognized as drugs in the official United States Pharmacopoeia,  
13       official Homeopathic Pharmacopoeia of the United States, or official National  
14       Formulary, or any supplement to any of them;

15       (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or  
16       prevention of disease in man or animals;

17       (c) Substances (other than food) intended to affect the structure or any function of  
18       the body of man or animals; and

19       (d) Substances intended for use as a component of any article specified in this  
20       subsection.

21       It does not include devices or their components, parts, or accessories;

22       (17)~~(16)~~ "Fentanyl" means a substance containing any quantity of fentanyl, or any of  
23       its salts, isomers, or salts of isomers;

24       (18)~~(17)~~ "Fentanyl derivative" means a substance containing any quantity of any  
25       chemical compound, except compounds specifically scheduled as controlled  
26       substances by statute or by administrative regulation pursuant to this chapter, which  
27       is structurally derived from 1-ethyl-4-(N-phenylamido) piperidine:

- 1 (a) By substitution:
- 2 1. At the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or
- 3 ethyloxotetrazole ring system; and
- 4 2. Of the terminal amido hydrogen atom with an alkyl, alkoxy, cycloalkyl,
- 5 or furanyl group; and
- 6 (b) Which may be further modified in one (1) or more of the following ways:
- 7 1. By substitution on the N-phenyl ring to any extent with alkyl, alkoxy,
- 8 haloalkyl, hydroxyl, or halide substituents;
- 9 2. By substitution on the piperadine ring to any extent with alkyl, allyl,
- 10 alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6-
- 11 positions;
- 12 3. By substitution on the piperadine ring to any extent with a phenyl,
- 13 alkoxy, or carboxylate ester substituent at the 4- position; or
- 14 4. By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or
- 15 hydroxy substituents;

16 (19)~~[(18)]~~ "Good-faith prior examination," ~~[as used in KRS Chapter 218A and ]~~for  
17 criminal prosecution only, means an in-person medical examination of the patient  
18 conducted by the prescribing practitioner or other health-care professional routinely  
19 relied upon in the ordinary course of his or her practice, at which time the patient is  
20 physically examined and a medical history of the patient is obtained. "In-person"  
21 includes telehealth examinations. This subsection shall not be applicable to hospice  
22 providers licensed pursuant to KRS Chapter 216B;

23 (20)~~[(19)]~~ "Hazardous chemical substance" includes any chemical substance used or  
24 intended for use in the illegal manufacture of a controlled substance as defined in  
25 this section or the illegal manufacture of methamphetamine as defined in KRS  
26 218A.1431, which:

- 27 (a) Poses an explosion hazard;

1 (b) Poses a fire hazard; or

2 (c) Is poisonous or injurious if handled, swallowed, or inhaled;

3 (21)~~[(20)]~~ "Heroin" means a substance containing any quantity of heroin, or any of its  
4 salts, isomers, or salts of isomers;

5 (22)~~[(21)]~~ "Hydrocodone combination product" means a drug with:

6 (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of  
7 its salts, per one hundred (100) milliliters or not more than fifteen (15)  
8 milligrams per dosage unit, with a fourfold or greater quantity of an  
9 isoquinoline alkaloid of opium; or

10 (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of  
11 its salts, per one hundred (100) milliliters or not more than fifteen (15)  
12 milligrams per dosage unit, with one (1) or more active, nonnarcotic  
13 ingredients in recognized therapeutic amounts;

14 (23)~~[(22)]~~ "Immediate precursor" means a substance which is the principal compound  
15 commonly used or produced primarily for use, and which is an immediate chemical  
16 intermediary used or likely to be used in the manufacture of a controlled substance  
17 or methamphetamine, the control of which is necessary to prevent, curtail, or limit  
18 manufacture;

19 (24)~~[(23)]~~ "Industrial hemp" has the same meaning as in KRS 260.850;

20 (25)~~[(24)]~~ "Industrial hemp products" has the same meaning as in KRS 260.850;

21 (26)~~[(25)]~~ "Intent to manufacture" means any evidence which demonstrates a person's  
22 conscious objective to manufacture a controlled substance or methamphetamine.  
23 Such evidence includes but is not limited to statements and a chemical substance's  
24 usage, quantity, manner of storage, or proximity to other chemical substances or  
25 equipment used to manufacture a controlled substance or methamphetamine;

26 (27)~~[(26)]~~ "Isomer" means the optical isomer, except the cabinet ~~for Health and Family~~  
27 ~~Services~~ may include the optical, positional, or geometric isomer to classify any

1 substance pursuant to KRS 218A.020;

2 ~~(28)~~~~(27)~~ "Manufacture," except as provided in KRS 218A.1431, means the production,  
3 preparation, propagation, compounding, conversion, or processing of a controlled  
4 substance, either directly or indirectly by extraction from substances of natural  
5 origin or independently by means of chemical synthesis, or by a combination of  
6 extraction and chemical synthesis, and includes any packaging or repackaging of  
7 the substance or labeling or relabeling of its container except that this term does not  
8 include activities:

9 (a) By a practitioner as an incident to his or her administering or dispensing of a  
10 controlled substance in the course of his or her professional practice;

11 (b) By a practitioner, or by his or her authorized agent under his or her  
12 supervision, for the purpose of, or as an incident to, research, teaching, or  
13 chemical analysis and not for sale; or

14 (c) By a pharmacist as an incident to his or her dispensing of a controlled  
15 substance in the course of his or her professional practice;

16 ~~(29)~~~~(28)~~ "Marijuana" means all parts of the plant Cannabis sp., whether growing or  
17 not; the seeds thereof; the resin extracted from any part of the plant; and every  
18 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its  
19 seeds or resin or any compound, mixture, or preparation which contains any  
20 quantity of these substances. The term "marijuana" does not include:

21 (a) Industrial hemp that is in the possession, custody, or control of a person who  
22 holds a license issued by the Department of Agriculture permitting that person  
23 to cultivate, handle, or process industrial hemp;

24 (b) Industrial hemp products that do not include any living plants, viable seeds,  
25 leaf materials, or floral materials;

26 (c) The substance cannabidiol, when transferred, dispensed, or administered  
27 pursuant to the written order of a physician practicing at a hospital or

- 1 associated clinic affiliated with a Kentucky public university having a college  
2 or school of medicine;
- 3 (d) For persons participating in a clinical trial or in an expanded access program,  
4 a drug or substance approved for the use of those participants by the United  
5 States Food and Drug Administration;
- 6 (e) A cannabidiol product derived from industrial hemp, as defined in KRS  
7 260.850;
- 8 (f) For the purpose of conducting scientific research, a cannabinoid product  
9 derived from industrial hemp, as defined in KRS 260.850;
- 10 (g) A cannabinoid product approved as a prescription medication by the United  
11 States Food and Drug Administration; or
- 12 (h) Medicinal cannabis as defined in KRS 218B.010;
- 13 ~~(30)~~~~(29)~~ "Medical history," ~~[as used in KRS Chapter 218A and ]~~for criminal  
14 prosecution only, means an accounting of a patient's medical background, including  
15 but not limited to prior medical conditions, prescriptions, and family background;
- 16 ~~(31)~~~~(30)~~ "Medical order," ~~[as used in KRS Chapter 218A and ]~~for criminal prosecution  
17 only, means a lawful order of a specifically identified practitioner for a specifically  
18 identified patient for the patient's health-care needs. "Medical order" may or may  
19 not include a prescription drug order;
- 20 ~~(32)~~~~(31)~~ "Medical record," ~~[as used in KRS Chapter 218A and ]~~for criminal  
21 prosecution only, means a record, other than for financial or billing purposes,  
22 relating to a patient, kept by a practitioner as a result of the practitioner-patient  
23 relationship;
- 24 ~~(33)~~~~(32)~~ "Methamphetamine" means any substance that contains any quantity of  
25 methamphetamine, or any of its salts, isomers, or salts of isomers;
- 26 ~~(34)~~~~(33)~~ "Narcotic drug" means any of the following, whether produced directly or  
27 indirectly by extraction from substances of vegetable origin, or independently by

1 means of chemical synthesis, or by a combination of extraction and chemical  
2 synthesis:

- 3 (a) Opium and opiate, and any salt, compound, derivative, or preparation of  
4 opium or opiate;
- 5 (b) Any salt, compound, isomer, derivative, or preparation thereof which is  
6 chemically equivalent or identical with any of the substances referred to in  
7 paragraph (a) of this subsection, but not including the isoquinoline alkaloids  
8 of opium;
- 9 (c) Opium poppy and poppy straw;
- 10 (d) Coca leaves, except coca leaves and extracts of coca leaves from which  
11 cocaine, ecgonine, and derivatives of ecgonine or their salts have been  
12 removed;
- 13 (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 14 (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
- 15 (g) Any compound, mixture, or preparation which contains any quantity of any of  
16 the substances referred to in paragraphs (a) to (f) of this subsection;

17 ~~(35)~~<sup>(34)</sup> "Opiate" means any substance having an addiction-forming or addiction-  
18 sustaining liability similar to morphine or being capable of conversion into a drug  
19 having addiction-forming or addiction-sustaining liability. It does not include,  
20 unless specifically designated as controlled under KRS 218A.020, the  
21 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts  
22 (dextromethorphan). It does include its racemic and levorotatory forms;

23 ~~(36)~~<sup>(35)</sup> "Opium poppy" means the plant of the species *papaver somniferum* L., except  
24 its seeds;

25 ~~(37)~~<sup>(36)</sup> "Person" means individual, corporation, government or governmental  
26 subdivision or agency, business trust, estate, trust, partnership or association, or any  
27 other legal entity;

1 ~~(38)~~~~(37)~~ "Physical injury" has the same meaning as~~[it has]~~ in KRS 500.080;

2 ~~(39)~~~~(38)~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after  
3 mowing;

4 ~~(40)~~~~(39)~~ "Pharmacist" means a natural person licensed by this state to engage in the  
5 practice of the profession of pharmacy;

6 ~~(41)~~~~(40)~~ "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific  
7 investigator, optometrist as authorized in KRS 320.240, advanced practice  
8 registered nurse as authorized under KRS 314.011, physician assistant as authorized  
9 under KRS 311.858, or other person licensed, registered, or otherwise permitted by  
10 state or federal law to acquire, distribute, dispense, conduct research with respect to,  
11 or to administer a controlled substance in the course of professional practice or  
12 research in this state. "Practitioner" also includes a physician, dentist, podiatrist,  
13 veterinarian, or advanced practice registered nurse authorized under KRS 314.011  
14 who is a resident of and actively practicing in a state other than Kentucky and who  
15 is licensed and has prescriptive authority for controlled substances under the  
16 professional licensing laws of another state, unless the person's Kentucky license  
17 has been revoked, suspended, restricted, or probated, in which case the terms of the  
18 Kentucky license shall prevail;

19 ~~(42)~~~~(41)~~ "Practitioner-patient relationship," ~~[as used in KRS Chapter 218A and ]~~for  
20 criminal prosecution only, means a medical relationship that exists between a  
21 patient and a practitioner or the practitioner's designee, after the practitioner or his  
22 or her designee has conducted at least one (1) good-faith prior examination;

23 ~~(43)~~~~(42)~~ "Prescription" means a written, electronic, or oral order for a drug or  
24 medicine, or combination or mixture of drugs or medicines, or proprietary  
25 preparation, signed or given or authorized by a medical, dental, chiropody,  
26 veterinarian, optometric practitioner, or advanced practice registered nurse, and  
27 intended for use in the diagnosis, cure, mitigation, treatment, or prevention of

1 disease in man or other animals;

2 ~~(44)~~~~((43))~~ "Prescription blank," with reference to a controlled substance, means a  
3 document that meets the requirements of KRS 218A.204 and 217.216;

4 ~~(45)~~~~((44))~~ "Presumptive probation" means a sentence of probation not to exceed the  
5 maximum term specified for the offense, subject to conditions otherwise authorized  
6 by law, that is presumed to be the appropriate sentence for certain offenses  
7 designated in this chapter, notwithstanding contrary provisions of KRS Chapter  
8 533. That presumption shall only be overcome by a finding on the record by the  
9 sentencing court of substantial and compelling reasons why the defendant cannot be  
10 safely and effectively supervised in the community, is not amenable to community-  
11 based treatment, or poses a significant risk to public safety;

12 ~~(46)~~~~((45))~~ "Production" includes the manufacture, planting, cultivation, growing, or  
13 harvesting of a controlled substance;

14 ~~(47)~~~~((46))~~ "Recovery program" means an evidence-based, nonclinical service that assists  
15 individuals and families working toward sustained recovery from substance use and  
16 other criminal risk factors. This can be done through an array of support programs  
17 and services that are delivered through residential and nonresidential means;

18 ~~(48)~~~~((47))~~ "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the  
19 plant presently classified botanically as *Salvia divinorum*, whether growing or not,  
20 the seeds thereof, any extract from any part of that plant, and every compound,  
21 manufacture, derivative, mixture, or preparation of that plant, its seeds, or its  
22 extracts, including salts, isomers, and salts of isomers whenever the existence of  
23 such salts, isomers, and salts of isomers is possible within the specific chemical  
24 designation of that plant, its seeds, or extracts. The term shall not include any other  
25 species in the genus *salvia*;

26 ~~(49)~~~~((48))~~ "Second or subsequent offense" means that for the purposes of this chapter an  
27 offense is considered as a second or subsequent offense, if, prior to his or her

1 conviction of the offense, the offender has at any time been convicted under this  
2 chapter, or under any statute of the United States, or of any state relating to  
3 substances classified as controlled substances or counterfeit substances, except that  
4 a prior conviction for a nontrafficking offense shall be treated as a prior offense  
5 only when the subsequent offense is a nontrafficking offense. For the purposes of  
6 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not  
7 constitute a conviction under this chapter;

8 ~~(50)~~~~(49)~~ "Sell" means to dispose of a controlled substance to another person for  
9 consideration or in furtherance of commercial distribution;

10 ~~(51)~~~~(50)~~ "Serious physical injury" has the same meaning ~~as~~~~it has~~ in KRS 500.080;

11 ~~(52)~~~~(51)~~ "Synthetic cannabinoids or piperazines" means any chemical compound  
12 which is not approved by the United States Food and Drug Administration or, if  
13 approved, which is not dispensed or possessed in accordance with state and federal  
14 law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine  
15 (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-  
16 Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-  
17 211); or any compound in the following structural classes:

18 (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole  
19 structure with substitution at the nitrogen atom of the indole ring by an alkyl,  
20 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
21 piperidiny)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further  
22 substituted in the indole ring to any extent and whether or not substituted in  
23 the naphthyl ring to any extent. Examples of this structural class include but  
24 are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-  
25 122, JWH-200, and AM-2201;

26 (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole  
27 structure with substitution at the nitrogen atom of the indole ring by an alkyl,

1 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
2 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further  
3 substituted in the indole ring to any extent and whether or not substituted in  
4 the phenyl ring to any extent. Examples of this structural class include but are  
5 not limited to JWH-167, JWH-250, JWH-251, and RCS-8;

6 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with  
7 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,  
8 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
9 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further  
10 substituted in the indole ring to any extent and whether or not substituted in  
11 the phenyl ring to any extent. Examples of this structural class include but are  
12 not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and  
13 RCS-4;

14 (d) Cyclohexylphenols: Any compound containing a 2-(3-  
15 hydroxycyclohexyl)phenol structure with substitution at the 5-position of the  
16 phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,  
17 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl  
18 group whether or not substituted in the cyclohexyl ring to any extent.  
19 Examples of this structural class include but are not limited to CP 47,497 and  
20 its C8 homologue (cannabicyclohexanol);

21 (e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-  
22 naphthyl)methane structure with substitution at the nitrogen atom of the  
23 indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
24 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether  
25 or not further substituted in the indole ring to any extent and whether or not  
26 substituted in the naphthyl ring to any extent. Examples of this structural class  
27 include but are not limited to JWH-175, JWH-184, and JWH-185;

- 1 (f) Naphthoypyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole  
2 structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl,  
3 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
4 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further  
5 substituted in the pyrrole ring to any extent and whether or not substituted in  
6 the naphthyl ring to any extent. Examples of this structural class include but  
7 are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
- 8 (g) Naphthylmethylindenes: Any compound containing a 1-(1-  
9 naphthylmethyl)indene structure with substitution at the 3-position of the  
10 indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
11 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether  
12 or not further substituted in the indene ring to any extent and whether or not  
13 substituted in the naphthyl ring to any extent. Examples of this structural class  
14 include but are not limited to JWH-176;
- 15 (h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-  
16 tetramethylcyclopropoyl)indole structure with substitution at the nitrogen  
17 atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl,  
18 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl  
19 group, whether or not further substituted in the indole ring to any extent and  
20 whether or not further substituted in the tetramethylcyclopropyl ring to any  
21 extent. Examples of this structural class include but are not limited to UR-144  
22 and XLR-11;
- 23 (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole  
24 structure with substitution at the nitrogen atom of the indole ring by an alkyl,  
25 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
26 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further  
27 substituted in the indole ring to any extent and whether or not substituted in

1 the adamantyl ring system to any extent. Examples of this structural class  
2 include but are not limited to AB-001 and AM-1248; or

3 (j) Any other synthetic cannabinoid or piperazine which is not approved by the  
4 United States Food and Drug Administration or, if approved, which is not  
5 dispensed or possessed in accordance with state and federal law;

6 ~~(53)~~~~(52)~~ "Synthetic cathinones" means any chemical compound which is not approved  
7 by the United States Food and Drug Administration or, if approved, which is not  
8 dispensed or possessed in accordance with state and federal law (not including  
9 bupropion or compounds listed under a different schedule) structurally derived from  
10 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl,  
11 or thiophene ring systems, whether or not the compound is further modified in one  
12 (1) or more of the following ways:

13 (a) By substitution in the ring system to any extent with alkyl, alkylendioxy,  
14 alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further  
15 substituted in the ring system by one (1) or more other univalent substituents.  
16 Examples of this class include but are not limited to 3,4-  
17 Methylenedioxcathinone (bk-MDA);

18 (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples  
19 of this class include but are not limited to 2-methylamino-1-phenylbutan-1-  
20 one (buphedrone);

21 (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or  
22 methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a  
23 cyclic structure. Examples of this class include but are not limited to  
24 Dimethylcathinone, Ethcathinone, and  $\alpha$ -Pyrrolidinopropiophenone ( $\alpha$ -PPP);  
25 or

26 (d) Any other synthetic cathinone which is not approved by the United States  
27 Food and Drug Administration or, if approved, is not dispensed or possessed

1 in accordance with state or federal law;

2 ~~(54)~~~~(53)~~ "Synthetic drugs" means any synthetic cannabinoids or piperazines or any  
3 synthetic cathinones;

4 ~~(55)~~~~(54)~~ "Telehealth" has the same meaning ~~as it has~~ in KRS 211.332;

5 ~~(56)~~~~(55)~~ "Tetrahydrocannabinols" means synthetic equivalents of the substances  
6 contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or  
7 synthetic substances, derivatives, and their isomers with similar chemical structure  
8 and pharmacological activity such as the following:

9 (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;

10 (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and

11 (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;

12 ~~(57)~~~~(56)~~ "Traffic," except as provided in KRS 218A.1431, means to manufacture,  
13 distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute,  
14 dispense, or sell a controlled substance;

15 ~~(58)~~~~(57)~~ "Transfer" means to dispose of a controlled substance to another person  
16 without consideration and not in furtherance of commercial distribution; and

17 ~~(59)~~~~(58)~~ "Ultimate user" means a person who lawfully possesses a controlled substance  
18 for his or her own use or for the use of a member of his or her household or for  
19 administering to an animal owned by him or her or by a member of his or her  
20 household.

21 ➔Section 2. KRS 218A.1410 is amended to read as follows:

22 (1) A person is guilty of importing heroin, carfentanil, *cychlorphine*, fentanyl, or  
23 fentanyl derivatives when he or she knowingly and unlawfully transports any  
24 quantity of heroin, carfentanil, *cychlorphine*, fentanyl, or fentanyl derivatives into  
25 the Commonwealth by any means with the intent to sell or distribute the heroin,  
26 carfentanil, *cychlorphine*, fentanyl, or fentanyl derivatives.

27 (2) The provisions of this section are intended to be a separate offense from others in

1 this chapter, and shall be punished in addition to violations of this chapter occurring  
2 during the same course of conduct.

- 3 (3) (a) Importing heroin is a Class C felony, and the defendant shall not be released  
4 on probation, shock probation, conditional discharge, or parole until he or she  
5 has served at least fifty percent (50%) of the sentence imposed.
- 6 (b) Importing carfentanil, *cychlorphine*, fentanyl, or fentanyl derivatives is a  
7 Class C felony, and the defendant *shall not be*:
- 8 1. ~~{Shall not be}~~ Eligible for pretrial diversion; ~~or~~ ~~and~~
  - 9 2. ~~{Shall not be}~~ Released on probation, shock probation, conditional  
10 discharge, ~~or~~ ~~parole~~, *or other form of early release* until he or she has  
11 served at least eighty-five percent (85%) of the sentence imposed.

12 ➔Section 3. KRS 218A.1412 is amended to read as follows:

- 13 (1) A person is guilty of trafficking in a controlled substance in the first degree when  
14 he or she knowingly and unlawfully traffics in:
- 15 (a) Four (4) grams or more of cocaine;
  - 16 (b) Two (2) grams or more of methamphetamine;
  - 17 (c) Ten (10) or more dosage units of a controlled substance that is classified in  
18 Schedules I or II and is a narcotic drug, or a controlled substance analogue;
  - 19 (d) Any quantity of heroin, *cychlorphine*, fentanyl, carfentanil, or fentanyl  
20 derivatives; lysergic acid diethylamide; phencyclidine; gamma  
21 hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers, and  
22 analogues; or flunitrazepam, including its salts, isomers, and salts of isomers;  
23 or
  - 24 (e) Any quantity of a controlled substance specified in paragraph (a), (b), or (c) of  
25 this subsection in an amount less than the amounts specified in those  
26 paragraphs.
- 27 (2) The amounts specified in subsection (1) of this section may occur in a single

1 transaction or may occur in a series of transactions over a period of time not to  
2 exceed ninety (90) days that cumulatively result in the quantities specified in this  
3 section.

- 4 (3) (a) Any person who violates the provisions of subsection (1)(a), (b), (c), or (d) of  
5 this section shall be guilty of a Class C felony for the first offense and a Class  
6 B felony for a second or subsequent offense.
- 7 (b) Any person who violates the provisions of subsection (1)(e) of this section  
8 shall be guilty of a Class D felony for the first offense and a Class C felony  
9 for a second or subsequent offense.
- 10 (c) If the substance is *cychlorphine*, fentanyl, or a fentanyl derivative, and the  
11 injection, ingestion, inhalation, or other introduction of the *cychlorphine*,  
12 fentanyl, or fentanyl derivative causes the death of a person, the penalty for  
13 the offense shall be one (1) level higher than the level otherwise specified in  
14 this section.
- 15 (d) Any person convicted of a Class C felony offense or higher under this section  
16 shall not be released on probation, shock probation, parole, conditional  
17 discharge, or other form of early release until he or she has served at least fifty  
18 percent (50%) of the sentence imposed in cases where the trafficked substance  
19 was heroin, *cychlorphine*, fentanyl, carfentanil, or fentanyl derivatives.

20 ➔Section 4. KRS 218A.14141 is amended to read as follows:

- 21 (1) A person is guilty of trafficking in a misrepresented controlled substance when he  
22 or she knowingly and unlawfully sells or distributes any Schedule I controlled  
23 substance, carfentanil, *cychlorphine*, or fentanyl while misrepresenting the identity  
24 of the Schedule I controlled substance, carfentanil, *cychlorphine*, or fentanyl being  
25 sold or distributed as a legitimate pharmaceutical product.
- 26 (2) The provisions of this section are intended to be a separate offense from others in  
27 this chapter, and shall be punished in addition to violations of this chapter occurring

1 during the same course of conduct.

2 (3) Trafficking in a misrepresented controlled substance is a Class D felony.

3 ➔Section 5. KRS 218A.142 is amended to read as follows:

4 (1) A person is guilty of aggravated trafficking in a controlled substance in the first  
5 degree when he or she knowingly and unlawfully traffics in:

6 (a) One hundred (100) grams or more of heroin;

7 (b) Twenty-eight (28) grams or more of fentanyl;~~or~~

8 (c) **Ten (10) grams or more of cycchlorphine; or**

9 **(d)** Ten (10) grams or more of carfentanil or fentanyl derivatives.

10 (2) Aggravated trafficking in a controlled substance in the first degree is a Class B  
11 felony, and:

12 (a) The defendant shall not be released on probation, shock probation, conditional  
13 discharge, ~~or~~ parole, **or other form of early release** until he or she has  
14 served at least fifty percent (50%) of the sentence imposed where the  
15 trafficked substance was heroin; or

16 (b) The defendant shall not be eligible for pretrial diversion, and shall not be  
17 released on probation, shock probation, conditional discharge, ~~or~~ parole, **or**  
18 **other form of early release** until he or she has served at least eighty-five  
19 percent (85%) of the sentence imposed where the trafficked substance was  
20 fentanyl, carfentanil, **cycchlorphine**, or fentanyl derivatives.

21 ➔Section 6. KRS 500.080 is amended to read as follows:

22 As used in the Kentucky Penal Code, unless the context otherwise requires:

23 (1) "Actor" means any natural person and, where relevant, a corporation or an  
24 unincorporated association;

25 (2) "Crime" means a misdemeanor or a felony;

26 (3) **"Cycchlorphine" has the same meaning as in Section 1 of this Act;**

27 **(4)** "Dangerous instrument" means any instrument, including parts of the human body

1 when a serious physical injury is a direct result of the use of that part of the human  
2 body, article, or substance which, under the circumstances in which it is used,  
3 attempted to be used, or threatened to be used, is readily capable of causing death or  
4 serious physical injury. "Dangerous instrument" may include a laser;

5 ~~(5)~~~~(4)~~ "Deadly weapon" means any of the following:

- 6 (a) A weapon of mass destruction;
- 7 (b) Any weapon from which a shot, readily capable of producing death or other  
8 serious physical injury, may be discharged;
- 9 (c) Any knife other than an ordinary pocket knife or hunting knife;
- 10 (d) Billy, nightstick, or club;
- 11 (e) Blackjack or slapjack;
- 12 (f) Nunchaku karate sticks;
- 13 (g) Shuriken or death star; or
- 14 (h) Artificial knuckles made from metal, plastic, or other similar hard material;

15 ~~(6)~~~~(5)~~ "Felony" means an offense for which a sentence to a term of imprisonment of  
16 at least one (1) year in the custody of the Department of Corrections may be  
17 imposed;

18 **(7) "Fentanyl" has the same meaning as in Section 1 of this Act;**

19 ~~(8)~~~~(6)~~ "Fentanyl derivative" has the same meaning as in KRS 218A.010;

20 ~~(9)~~~~(7)~~ "Government" means the United States, any state, county, municipality, or  
21 other political unit, or any department, agency, or subdivision of any of the  
22 foregoing, or any corporation or other association carrying out the functions of  
23 government;

24 ~~(10)~~~~(8)~~ "He" **or "she"** means any natural person and, where relevant, a corporation or  
25 an unincorporated association;

26 ~~(11)~~~~(9)~~ "Impacted by the disaster" means the location or in reasonable proximity to  
27 the location where a natural or man-made disaster has caused physical injury,

1 serious physical injury, death, or substantial damage to property or infrastructure;

2 ~~(12)~~~~(10)~~ "Laser" means any device designed or used to amplify electromagnetic  
3 radiation by stimulated emission that emits a beam, other than a medical laser when  
4 used in medical treatment or surgery;

5 ~~(13)~~~~(11)~~ "Law" includes statutes, ordinances, and properly adopted regulatory  
6 provisions. Unless the context otherwise clearly requires, "law" also includes the  
7 common law;

8 ~~(14)~~~~(12)~~ "Minor" means any person who has not reached the age of majority as defined  
9 in KRS 2.015;

10 ~~(15)~~~~(13)~~ "Misdemeanor" means an offense, other than a traffic infraction, for which a  
11 sentence to a term of imprisonment of not more than twelve (12) months can be  
12 imposed;

13 ~~(16)~~~~(14)~~ "Natural or man-made disaster" means a tornado, storm, or other severe  
14 weather, earthquake, flood, or fire that poses a significant threat to human health  
15 and safety, property, or critical infrastructure;

16 ~~(17)~~~~(15)~~ "Offense" means conduct for which a sentence to a term of imprisonment or  
17 to a fine is provided by any law of this state or by any law, local law, or ordinance  
18 of a political subdivision of this state or by any law, order, rule, or regulation of any  
19 governmental instrumentality authorized by law to adopt the same;

20 ~~(18)~~~~(16)~~ "Person" means a human being, and where appropriate, a public or private  
21 corporation, an unincorporated association, a partnership, a government, or a  
22 governmental authority;

23 ~~(19)~~~~(17)~~ "Physical injury" means substantial physical pain or any impairment of  
24 physical condition;

25 ~~(20)~~~~(18)~~ "Possession" means to have actual physical possession or otherwise to  
26 exercise actual dominion or control over a tangible object;

27 ~~(21)~~~~(19)~~ "Serious physical injury" means physical injury which creates a substantial

- 1 risk of death, or which causes serious and prolonged disfigurement, prolonged  
2 impairment of health, prolonged loss or impairment of the function of any bodily  
3 organ, or eye damage or visual impairment. For a child twelve (12) years of age or  
4 less at the time of the injury, or for any person if the relationship between the  
5 perpetrator and the victim meets the definition of a family member or member of an  
6 unmarried couple as defined in KRS 403.720, or a dating relationship as defined in  
7 KRS 456.010, a serious physical injury includes but is not limited to the following:
- 8 (a) Bruising near the eyes, or on the head, neck, or lower back overlying the  
9 kidneys;
  - 10 (b) Any bruising severe enough to cause underlying muscle damage as  
11 determined by elevated creatine kinase levels in the blood;
  - 12 (c) Any bruising or soft tissue injury to the genitals that affects the ability to  
13 urinate or defecate;
  - 14 (d) Any testicular injury sufficient to put fertility at risk;
  - 15 (e) Any burn near the eyes or involving the mouth, airway, or esophagus;
  - 16 (f) Any burn deep enough to leave scarring or dysfunction of the body;
  - 17 (g) Any burn requiring hospitalization, debridement in the operating room, IV  
18 fluids, intubation, or admission to a hospital's intensive care unit;
  - 19 (h) Rib fracture;
  - 20 (i) Scapula or sternum fractures;
  - 21 (j) Any broken bone that requires surgery;
  - 22 (k) Head injuries that result in intracranial bleeding, skull fracture, or brain  
23 injury;
  - 24 (l) A concussion that results in the child becoming limp, unresponsive, or results  
25 in seizure activity;
  - 26 (m) Abdominal injuries that indicate internal organ damage regardless of whether  
27 surgery is required;

- 1 (n) Any injury requiring surgery;
- 2 (o) Any injury that requires a blood transfusion; and
- 3 (p) Any injury requiring admission to a hospital's critical care unit;
- 4 ~~(22)~~~~(20)~~ "Unlawful" means contrary to law or, where the context so requires, not  
5 permitted by law. It does not mean wrongful or immoral;
- 6 ~~(23)~~~~(21)~~ "Violation" means an offense, other than a traffic infraction, for which a  
7 sentence to a fine only can be imposed; and
- 8 ~~(24)~~~~(22)~~ "Weapon of mass destruction" means:
- 9 (a) Any destructive device as defined in KRS 237.030, but not fireworks as  
10 defined in KRS 227.700;
- 11 (b) Any weapon that is designed or intended to cause death or serious physical  
12 injury through the release, dissemination, or impact of toxic or poisonous  
13 chemicals or their precursors;
- 14 (c) Any weapon involving a disease organism; or
- 15 (d) Any weapon that is designed to release radiation or radioactivity at a level  
16 dangerous to human life.

17 ➔Section 7. KRS 507.030 is amended to read as follows:

- 18 (1) A person is guilty of manslaughter in the first degree when:
- 19 (a) With intent to cause serious physical injury to another person, he or she  
20 causes the death of such person or of a third person;
- 21 (b) With intent to cause the death of another person, he or she causes the death of  
22 such person or of a third person under circumstances which do not constitute  
23 murder because he or she acts under the influence of extreme emotional  
24 disturbance, as defined in subsection (1)(a) of KRS 507.020;
- 25 (c) Through circumstances not otherwise constituting the offense of murder, he or  
26 she intentionally abuses another person or knowingly permits another person  
27 of whom he or she has actual custody to be abused and thereby causes death

1 to a person twelve (12) years of age or less, or who is physically helpless or  
2 mentally helpless; or

3 (d) He or she knowingly sells *cyclorphine*, fentanyl, or a fentanyl derivative to  
4 another person, and the injection, ingestion, inhalation, or other introduction  
5 of the *cyclorphine*, fentanyl, or fentanyl derivative causes the death of the  
6 person.

7 (2) Manslaughter in the first degree is a Class B felony.

8 ➔Section 8. KRS 507.040 is amended to read as follows:

9 (1) A person is guilty of manslaughter in the second degree when he or she wantonly  
10 causes the death of another person, including but not limited to situations where the  
11 death results from the person's:

12 (a) Operation of a motor vehicle;

13 (b) Leaving a child under the age of eight (8) years in a motor vehicle under  
14 circumstances which manifest an extreme indifference to human life and  
15 which create a grave risk of death to the child, thereby causing the death of  
16 the child;

17 (c) Unlawful distribution for remuneration of a Schedule I or II controlled  
18 substance when the controlled substance is the proximate cause of death; or

19 (d) Knowing distribution of *cyclorphine*, fentanyl, or a fentanyl derivative to  
20 another person without remuneration, and the injection, ingestion, inhalation,  
21 or other introduction of the *cyclorphine*, fentanyl, or fentanyl derivative  
22 causes the death of the person.

23 (2) Manslaughter in the second degree is a Class C felony.

24 ➔Section 9. KRS 520.050 is amended to read as follows:

25 (1) A person is guilty of promoting contraband in the first degree when:

26 (a) He or she knowingly introduces dangerous contraband into a detention facility  
27 or a penitentiary; or

1 (b) Being a person confined in a detention facility or a penitentiary, he or she  
2 knowingly makes, obtains, or possesses dangerous contraband.

3 (2) Promoting contraband in the first degree is a Class D felony, unless the dangerous  
4 contraband is cyclorphine, fentanyl, carfentanil, or a fentanyl derivative, in which  
5 case it is a Class C felony.

6 ➔Section 10. KRS 532.100 is amended to read as follows:

7 (1) As used in this section, "jail" means a "jail" or "regional jail" as defined in KRS  
8 441.005.

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

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

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

18 (5) (a) The provisions of KRS 500.080(~~6~~)(~~5~~) notwithstanding, if a Class D felon is  
19 sentenced to an indeterminate term of imprisonment of five (5) years or less,  
20 he or she shall serve that term in a jail in a county in which the fiscal court has  
21 agreed to house state prisoners; except that, when an indeterminate sentence  
22 of two (2) years or more is imposed on a Class D felon convicted of a sexual  
23 offense enumerated in KRS 197.410(1), or a crime under KRS 17.510(12) or  
24 (13), the sentence shall be served in a state institution. Counties choosing not  
25 to comply with the provisions of this paragraph shall be granted a waiver by  
26 the commissioner of the Department of Corrections.

27 (b) The provisions of KRS 500.080(~~6~~)(~~5~~) notwithstanding, a Class D felon who

1 received a sentence of more than five (5) years for nonviolent, nonsexual  
2 offenses, but who currently has less than five (5) years remaining to be  
3 served, may serve the remainder of his or her term in a jail in a county in  
4 which the fiscal court has agreed to house state prisoners.

5 (c) 1. The provisions of KRS 500.080(~~6~~)(~~5~~) notwithstanding, and except as  
6 provided in subparagraph 2. of this paragraph, a Class C or D felon with  
7 a sentence of more than five (5) years who is classified by the  
8 Department of Corrections as community custody shall serve that term  
9 in a jail in a county in which the fiscal court has agreed to house state  
10 prisoners if:

- 11 a. Beds are available in the jail;
- 12 b. State facilities are at capacity; and
- 13 c. Halfway house beds are being utilized at the contract level as of  
14 July 15, 2000.

15 2. When an indeterminate sentence of two (2) years or more is imposed on  
16 a felon convicted of a sex crime, as defined in KRS 17.500, or any  
17 similar offense in another jurisdiction, the sentence shall be served in a  
18 state institution.

19 3. Counties choosing not to comply with the provisions of this paragraph  
20 shall be granted a waiver by the commissioner of the Department of  
21 Corrections.

22 (d) Any jail that houses state inmates under this subsection shall offer programs  
23 as recommended by the Jail Standards Commission. The Department of  
24 Corrections shall adopt the recommendations of the Jail Standards  
25 Commission and promulgate administrative regulations establishing required  
26 programs for a jail that houses state inmates under this subsection. The  
27 Department of Corrections shall approve programming offered by jails to state

- 1 inmates for sentencing credits in accordance with KRS 197.045.
- 2 (e) Before housing any female state inmate, a jail shall be certified pursuant to  
3 KRS 197.020.
- 4 (f) 1. a. If a jail is at or over one hundred fifty percent (150%) capacity, the  
5 Department of Corrections may direct the jail to transfer a  
6 specified number of state prisoners to vacant beds at other  
7 designated jails or state institutions. As used in this paragraph,  
8 "capacity" means the capacity listed on the certificate of  
9 occupancy issued each year to the jail by the Department of  
10 Corrections.
- 11 b. The Department of Corrections shall choose which state prisoners  
12 are eligible for transfer based on the security level of the vacant  
13 bed at the receiving jail or state institution.
- 14 c. State prisoners who are approved for transfer to a Department of  
15 Corrections facility for necessary medical treatment and care  
16 pursuant to KRS 441.560 shall not be transferred to another jail.
- 17 d. State prisoners enrolled in a Department of Corrections approved  
18 program pursuant to KRS 197.045 shall not be transferred.
- 19 e. State prisoners awaiting trial in the county they are being housed  
20 shall not be transferred.
- 21 f. Jails that receive state prisoners pursuant to this subparagraph shall  
22 be responsible for the transportation of those prisoners to the jail.
- 23 2. If the Department of Corrections directs the transfer of a state prisoner  
24 pursuant to subparagraph 1. of this paragraph, the jailer has fourteen  
25 (14) days to transfer the state prisoner. If the jailer refuses to release  
26 custody of the state prisoner to the receiving jail within fourteen (14)  
27 days, the department shall reduce the per diem for the jail for an amount

1 equal to the per diem of that prisoner for each day the jailer refuses to  
2 comply with the direction.

3 3. If the Department of Corrections directs the transfer of a state prisoner  
4 pursuant to subparagraph 1. of this paragraph, the jailer of the receiving  
5 jail shall accept the transfer and transport the state prisoner in  
6 accordance with subparagraph 1.f. of this paragraph. If, after receiving a  
7 copy of the direction, the jailer refuses to accept and transport the state  
8 prisoner, the Department of Corrections shall reduce the per diem for the  
9 receiving jail for an amount equal to the per diem of that prisoner for  
10 each day the jailer refuses to comply with the direction.

11 4. If a jail has a vacant bed and has a Class C or Class D felon who, based  
12 on the Department of Corrections classification system, is eligible to be  
13 housed in that vacant bed, the department may direct the jail to transfer  
14 the state prisoner to that bed. If the jailer refuses to transfer the state  
15 prisoner to the vacant bed, the Department of Corrections shall reduce  
16 the per diem for the jail for an amount equal to the per diem of that  
17 prisoner for each day the jailer refuses to comply with the direction.

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

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

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

1 (6) The jailer of a county in which a Class D felon or a Class C felon is incarcerated  
2 may request the commissioner of the Department of Corrections to incarcerate the  
3 felon in a state corrections institution if the jailer has reasons to believe that the  
4 felon is an escape risk, a danger to himself or herself or other inmates, an extreme  
5 security risk, or needs protective custody beyond that which can be provided in a  
6 jail. The commissioner of the Department of Corrections shall evaluate the request  
7 and transfer the inmate if he or she deems it necessary. If the commissioner refuses  
8 to accept the felon inmate, and the Circuit Judge of the county that has jurisdiction  
9 of the offense charged is of the opinion that the felon cannot be safely kept in a jail,  
10 the Circuit Judge, with the consent of the Governor, may order the felon transferred  
11 to the custody of the Department of Corrections.

12 (7) (a) Class D felons and Class C felons serving their time in a jail shall be  
13 considered state prisoners, and, except as provided in subsection (5)(f) of this  
14 section, the Department of Corrections shall pay the jail in which the prisoner  
15 is incarcerated a per diem amount determined according to KRS 431.215(2).  
16 For other state prisoners and parole violator prisoners, the per diem payments  
17 shall also begin on the date prescribed in KRS 431.215(2), except as provided  
18 in subsection (5)(f) of this section.

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

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

1 (c) Any amount beyond the base per diem paid under paragraph (a) of this  
2 subsection that is paid under a contract to the jail for an inmate's attendance at  
3 an evidence-based program shall be credited toward the ten dollars (\$10)  
4 increase in per diem required under paragraph (b) of this subsection.

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

8 (9) (a) Class D felons eligible for placement in a jail may be permitted by the warden  
9 or jailer to participate in any approved community work program or other  
10 form of work release with the approval of the commissioner of the  
11 Department of Corrections.

12 (b) The authority to release an inmate to work under this subsection may be  
13 exercised at any time during the inmate's sentence, including the period when  
14 the court has concurrent authority to permit work release pursuant to KRS  
15 439.265.

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

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

- 25 1. Is not eligible for work release pursuant to KRS 197.140;
- 26 2. Has a maximum or close security classification as defined by  
27 administrative regulations promulgated by the Department of

- 1                    Corrections;
- 2                    3.    Is subject to the provisions of KRS 532.043; or
- 3                    4.    Is in a reentry center as defined in KRS 441.005.