

1 AN ACT relating to pretrial release.

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

3 ➔ SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Administratively released" means the pretrial release of a defendant by
7 pretrial services pursuant to rules or orders issued by the Supreme Court;
8 (b) "Jail" has the same meaning as in KRS 441.005;
9 (c) "Law enforcement agency" has the same meaning as in KRS 61.298; and
10 (c) "Regional jail" has the same meaning as in KRS 441.005.

11 (2) (a) Notwithstanding any provision of law to the contrary, a person shall not be:

12 1. Considered a verified and eligible defendant under KRS 431.066;
13 2. Released from custody on his or her own recognizance or bail; or
14 3. Administratively released;
15 until he or she can provide proof that he or she is a citizen of the United
16 States or otherwise lawfully permitted to be in the United States.

17 (b) A law enforcement agency, jail, or regional jail that has custody of a person
18 who cannot provide proof of citizenship or permission to be in the United
19 States shall immediately notify the United States Department of Homeland
20 Security to determine if the person is:

21 1. A citizen of the United States;
22 2. Lawfully permitted to be in the United States; or
23 3. Subject to a United States Immigration and Customs Enforcement
24 detainer.

25 (3) (a) A person shall not remain in custody under subsection (2) of this section
26 longer than forty-eight (48) hours, after which the person shall be eligible to
27 be released from custody on his or her own recognizance or bail under this

1 chapter.

2 (b) Any pretrial risk assessment completed for a person eligible to be released
3 under paragraph (a) of this subsection shall consider the fact that the
4 person cannot provide proof that he or she is a citizen of the United States
5 or otherwise lawfully permitted to be in the United States when determining
6 if the person is a flight risk, is unlikely to appear for trial, or is likely to be a
7 danger to the public if released.