

1 AN ACT relating to probation program credits.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 439.250 TO 439.560 IS CREATED  
4 TO READ AS FOLLOWS:

5 *(1) Any supervised individual on probation, probation with an alternative sentence,*  
6 *or conditional discharge shall receive credit on his or her sentence for:*

7 *(a) Successfully receiving a High School Equivalency Diploma or a high*  
8 *school diploma, a college degree, a completed vocational or technical*  
9 *education program, or a correspondence postsecondary education program*  
10 *which results in a diploma or degree, as defined and approved by the*  
11 *department in the amount of ninety (90) days per diploma, degree, or*  
12 *vocational or technical education program completed;*

13 *(b) Successfully completing a drug treatment program, evidence-based*  
14 *program, or any other promising practice or life skills program approved by*  
15 *the department, in the amount of not more than ninety (90) days for each*  
16 *program completed. The department shall determine criteria to establish*  
17 *whether a life skills or promising practice program is eligible for probation*  
18 *program credits. Programs shall demonstrate learning of skills necessary*  
19 *for reintegration into the community to minimize barriers to successful*  
20 *reentry. Approval of programs shall be subject to review by the department;*  
21 *and*

22 *(c) Work-for-time credit, which shall be applied for any employment whether*  
23 *public or private, at the same rates as calculated pursuant to KRS 197.047.*

24 *(2) No less than ninety (90) days before the projected date of final discharge, the*  
25 *department shall notify the sentencing court of probation program credits*  
26 *awarded pursuant to this section and that the period of supervision is reduced by*  
27 *the number of days of probation program credits earned by the supervised*

1 individual, and the impending discharge from supervision. If the sentencing  
 2 court, upon receiving such notice does not take any action pursuant to KRS  
 3 533.020, the offender shall be discharged.

4 (3) The department may promulgate administrative regulations for the awarding of  
 5 probation program credits.

6 (4) For supervised individuals on supervision prior to the effective date of this Act,  
 7 probation program credits shall begin to accrue on the first day of the first month  
 8 after the effective date of this Act.

9 ➔Section 2. KRS 439.250 is amended to read as follows:

10 As used in KRS 439.250 to 439.560, unless the context requires otherwise:

- 11 (1) "Secretary" means the secretary of the Justice and Public Safety Cabinet;
- 12 (2) "Commissioner" means the commissioner of the Department of Corrections;
- 13 (3) "Department" means the Department of Corrections;
- 14 (4) "Deputy commissioner" means the deputy commissioner of the Office of Adult  
 15 Institutions or the deputy commissioner of the Office of Community Services and  
 16 Facilities of the Department of Corrections;
- 17 (5) "Board" means the Parole Board created by KRS 439.320;
- 18 (6) "Community supervision" means:
- 19 (a) The placement of a defendant under supervision with conditions imposed by a  
 20 court for a specified period during which:
- 21 1. Criminal proceedings are deferred without an adjudication of guilt; or
- 22 2. A sentence of imprisonment or confinement, imprisonment and fine, or  
 23 confinement and fine, is probated and the imposition of sentence is  
 24 suspended in whole or in part; or
- 25 (b) The placement of an individual under supervision after release from prison or  
 26 jail, with conditions imposed by the board for a specified period;
- 27 (7) "Parole compliance credit" means a credit on a paroled individual's sentence for

1 program credit, work-for-time credit, educational accomplishment, or meritorious  
2 service and shall be calculated pursuant to the applicable provisions in KRS  
3 197.045 and 197.047;

4 (8) **"Probation program credit" means a credit on the sentence of a supervised**  
5 **individual who is on probation, probation with an alternative sentence, or**  
6 **conditional discharge for educational credit, program completion credit, or work-**  
7 **for-time credit calculated pursuant to Section 1 of this Act;**

8 (9) "Supervised compliance credit" means a credit on a **paroled**~~[supervised]~~  
9 individual's sentence for compliance with supervision that shall be calculated  
10 pursuant to KRS 439.345;

11 ~~(10)~~<sup>(9)</sup> "Positive reinforcement" means any of a wide range of rewards and  
12 incentives, including but not limited to awarding certificates of achievement,  
13 reducing reporting requirements, deferring a monthly supervision fee payment,  
14 removing supervision conditions such as home detention or curfew, or asking the  
15 supervised individual to be a mentor to others;

16 ~~(11)~~<sup>(10)</sup> "Probation and parole district supervisor" means the highest ranking field  
17 probation or parole administrator in each district; and

18 ~~(12)~~<sup>(11)</sup> "Supervised individual" means an individual placed on probation, **probation**  
19 **with an alternative sentence, or conditional discharge** by a court or serving a  
20 period of parole or post-release supervision from prison or jail.

21 ➔Section 3. KRS 533.020 is amended to read as follows:

22 (1) When a person who has been convicted of an offense or who has entered a plea of  
23 guilty to an offense is not sentenced to imprisonment, the court shall place him on  
24 probation if he is in need of the supervision, guidance, assistance, or direction that  
25 the probation service can provide. Conditions of probation shall be imposed as  
26 provided in KRS 533.030, but the court may modify or enlarge the conditions or, if  
27 the defendant commits an additional offense or violates a condition, revoke the

1 sentence at any time prior to the expiration or termination of the period of  
2 probation. When setting conditions under this subsection, the court shall not order  
3 any defendant to pay incarceration costs or any other cost permitted to be ordered  
4 under KRS 533.010 or other statute, except restitution and any costs owed to the  
5 Department of Corrections, through the circuit clerk.

6 (2) When a person who has been convicted of an offense or who has entered a plea of  
7 guilty to an offense is not sentenced to imprisonment, the court may sentence him to  
8 probation with an alternative sentence if it is of the opinion that the defendant  
9 should conduct himself according to conditions determined by the court and that  
10 probationary supervision alone is insufficient. The court may modify or enlarge the  
11 conditions or, if the defendant commits an additional offense or violates a  
12 condition, revoke the sentence at any time prior to the expiration or termination of  
13 the alternative sentence.

14 (3) When a person who has been convicted of an offense or who has entered a plea of  
15 guilty to an offense is not sentenced to imprisonment, the court may sentence him to  
16 conditional discharge if it is of the opinion that the defendant should conduct  
17 himself according to conditions determined by the court but that probationary  
18 supervision is inappropriate. Conditions of conditional discharge shall be imposed  
19 as provided in KRS 533.030, but the court may modify or enlarge the conditions or,  
20 if the defendant commits an additional offense or violates a condition, revoke the  
21 sentence at any time prior to the expiration or termination of the period of  
22 conditional discharge.

23 (4) The period of probation, probation with an alternative sentence, or conditional  
24 discharge shall be fixed by the court and at any time may be extended or shortened  
25 by duly entered court order *or as modified by the Department of Corrections*  
26 *through the application of probation program credits under Section 1 of this Act.*  
27 Such period, with extensions thereof, shall not exceed five (5) years, or the time

1           necessary to complete restitution, whichever is longer, upon conviction of a felony  
2           nor two (2) years, or the time necessary to complete restitution, whichever is longer,  
3           upon conviction of a misdemeanor. Upon completion of the probationary period,  
4           probation with an alternative sentence, or the period of conditional discharge, the  
5           defendant shall be deemed finally discharged, provided no warrant issued by the  
6           court is pending against him, and probation, probation with an alternative sentence,  
7           or conditional discharge has not been revoked.

8       (5) Notwithstanding the fact that a sentence to probation, probation with an alternative  
9           sentence, or conditional discharge can subsequently be modified or revoked, a  
10          judgment which includes such a sentence shall constitute a final judgment for  
11          purposes of appeal.