

1 AN ACT relating to crimes and punishments and making an appropriation therefor.

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

3 ➔Section 1. KRS 186.990 is amended to read as follows:

- 4 (1) Any person who violates any of the provisions of KRS 138.465, 186.020, 186.030,
5 186.040, 186.045(4), 186.050, 186.056, 186.060, 186.072, 186.073, 186.110,
6 186.130, 186.140, 186.150, 186.160, 186.170, 186.180(1) to (4)(a), 186.190,
7 186.1911, 186.200, 186.210(1) and (2), 186.230, 186.400 to 186.610, 186.630 to
8 186.640, or ~~[KRS]~~186.655 to 186.680 shall be guilty of a violation.
- 9 (2) ~~[Any person who violates any of the provisions of KRS 138.465, 186.072, 186.190,
10 186.200, or 186.210(2) shall be guilty of a Class A misdemeanor.~~
- 11 ~~(3)~~ (a) Except as provided in paragraph (b) of this subsection, a person who
12 violates the provisions of KRS 186.620~~[186.450(4), (5), or (6) or 186.452(3),~~
13 ~~(4), or (5)]~~ shall be guilty of a violation.
- 14 (b) A person who violates KRS 186.620 and whose operator's license was
15 denied, canceled, suspended, or revoked based on any violation of KRS
16 Chapter 189A or whose privilege to operate a motor vehicle was withdrawn
17 based on any violation of KRS Chapter 189A~~[any of the other provisions of~~
18 ~~KRS 186.400 to 186.640]~~ shall be guilty of a Class B misdemeanor.
- 19 ~~(3)~~~~(4)~~ Any clerk or judge failing to comply with KRS 186.550(1) shall be guilty of a
20 violation.
- 21 ~~(4)~~~~(5)~~ If it appears to the satisfaction of the trial court that any offender under KRS
22 186.400 to 186.640 has a driver's license but in good faith failed to have it on his or
23 her person or misplaced or lost it, the court may, in its discretion, dismiss the
24 charges against the defendant without fine, imprisonment, or cost.
- 25 ~~(5)~~~~(6)~~ Any person who steals a motor vehicle registration plate or renewal decal
26 shall be guilty of a Class D felony. Displaying a canceled registration plate on a
27 motor vehicle shall be prima facie evidence of guilt under this section.

1 ~~[(7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class~~
 2 ~~A misdemeanor.]~~

3 ~~(6)~~~~[(8)]~~ Any person who makes a false affidavit to secure a license plate under KRS
 4 186.172 shall be guilty of a Class A misdemeanor.

5 ~~(7)~~~~[(9)]~~ Any person who violates any provision of KRS 186.070~~[or 186.150]~~ shall be
 6 guilty of a Class ~~B~~~~[A]~~ misdemeanor.

7 ~~(8)~~~~[(10)]~~ Any person who operates a vehicle bearing a dealer's plate upon the highways
 8 of this Commonwealth with intent to evade the motor vehicle usage tax or
 9 registration fee shall be guilty of a Class A misdemeanor for the first offense and a
 10 Class D felony for each subsequent offense.

11 ~~(9)~~~~[(11)]~~ Any person, other than a licensed dealer or manufacturer, who procures a
 12 dealer's plate with intent to evade the motor vehicle usage tax or registration fee
 13 shall be guilty of a Class D felony.

14 ~~(10)~~~~[(12)]~~ Any resident who unlawfully registers, titles, or licenses a motor vehicle in
 15 any state other than Kentucky with intent to evade the motor vehicle usage tax or
 16 the registration fee ~~[shall be guilty of a Class A misdemeanor if the amount of tax~~
 17 ~~due is less than one hundred dollars (\$100), or of a Class D felony if the amount of~~
 18 ~~tax due is more than one hundred dollars (\$100), and in addition]~~ shall be liable for
 19 all taxes so evaded with applicable interest and penalties ***and shall be guilty of:***

20 ***(a) A Class B misdemeanor if the amount of tax due is one hundred dollars***
 21 ***(\$100) or less;***

22 ***(b) A Class A misdemeanor if the amount of tax due is more than one hundred***
 23 ***dollars (\$100) but less than two thousand dollars (\$2,000); or***

24 ***(c) A Class D felony if the amount of tax due is two thousand dollars (\$2,000)***
 25 ***or more.***

26 ➔Section 2. KRS 186.991 is amended to read as follows:

27 Any person who violates, or causes, aids, or abets any violation of KRS 186.053 or of any

1 order, rule, or regulation lawfully issued pursuant thereto, shall be fined not less than
2 twenty-five dollars (\$25) nor more than two hundred dollars (\$200)~~[- or imprisoned for~~
3 ~~not more than thirty (30) days, or both].~~

4 ➔Section 3. KRS 186A.990 is amended to read as follows:

5 (1) Any person who knowingly gives false, fraudulent, or erroneous information in
6 connection with an application for the registration, and when required, titling of a
7 vehicle, or any application for assignment of a vehicle identification number, or
8 replacement documents, or gives information in connection with his review of
9 applications, or falsely certifies the truthfulness and accuracy of information
10 supplied in connection with the registration and when required, titling of a vehicle,
11 shall be guilty of forgery in the second degree.

12 (2) Any person who violates KRS 186A.260 or KRS 186A.275 to 186A.285 shall be
13 guilty of a Class D felony.

14 (3) Any person who violates KRS 186A.300 to 186A.315 shall be guilty of a Class D
15 felony.

16 (4) Any person who operates a motor vehicle or trailer upon the highways of this state
17 without a temporary tag when one is required, or with one that is expired,
18 improperly executed, or displayed on a vehicle other than the one (1) to which it
19 was legitimately and lawfully issued, shall be guilty of a violation~~[Class B~~
20 ~~misdemeanor].~~

21 (5) Any person who violates the disclosure provisions of KRS 186A.530(8) shall be
22 guilty of a Class A misdemeanor.

23 (6) Any person who violates any provisions of this chapter, or regulations promulgated
24 pursuant thereto, and for which a specific penalty is not prescribed by statute, shall
25 be guilty of a violation~~[Class A misdemeanor].~~

26 (7) Criminal remedies or sanctions provided in this chapter are in addition to, and not
27 exclusive of, any other criminal remedies or sanctions provided elsewhere in the

1 statutes.

2 ➔Section 4. KRS 189.990 is amended to read as follows:

3 (1) Any person who violates any of the provisions of KRS 189.020 to 189.040,
4 subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to
5 (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to
6 (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS
7 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to
8 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590,
9 except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of
10 KRS 189.456, and 189.960 shall be fined not less than twenty dollars (\$20) nor
11 more than one hundred dollars (\$100) for each offense. Any person who violates
12 subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars (\$20)
13 nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not
14 more than one (1) year, or both, unless the accident involved death or serious
15 physical injury and the person knew or should have known of the death or serious
16 physical injury, in which case the person shall be guilty of a Class D felony. Any
17 person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined
18 not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court
19 costs nor fees shall be taxed against any person violating paragraph (c) of
20 subsection (5) of KRS 189.390.

21 (2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221,
22 189.222, 189.226, 189.230, 189.270, or 189.2713 shall be fined two cents
23 (\$0.02) per pound for each pound of excess load when the excess is five
24 thousand (5,000) pounds or less. When the excess exceeds five thousand
25 (5,000) pounds the fine shall be two cents (\$0.02) per pound for each pound of
26 excess load, but the fine levied shall not be less than one hundred dollars
27 (\$100) and shall not be more than five hundred dollars (\$500).

- 1 (b) Any person who violates the provisions of KRS 189.271 and is operating on a
2 route designated on the permit shall be fined one hundred dollars (\$100);
3 otherwise, the penalties in paragraph (a) of this subsection shall apply.
- 4 (c) Any person who violates any provision of subsection (2) or (3) of KRS
5 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270,
6 189.2713, 189.280, or the dimension provisions of KRS 189.212, for which
7 another penalty is not specifically provided shall be fined not less than ten
8 dollars (\$10) nor more than five hundred dollars (\$500).
- 9 (d) On or after July 1, 2020:
- 10 1. Any person who violates the weight provisions of KRS 189.2714 shall
11 be subject to the penalties outlined in paragraph (a) of this subsection;
12 and
- 13 2. Any person who violates any provision of KRS 189.2714 for which
14 another penalty is not specifically provided shall be fined not less than
15 ten dollars (\$10) nor more than five hundred dollars (\$500).
- 16 (e) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to
17 prejudice or affect the authority of the Department of Vehicle Regulation to
18 suspend or revoke certificates of common carriers, permits of contract
19 carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221
20 to 189.228 or any other act applicable to motor vehicles, as provided by law.
- 21 (3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not
22 more than fifteen dollars (\$15).
- 23 (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not
24 less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
- 25 (4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not
26 less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- 27 (b) Any peace officer who fails, when properly informed, to enforce KRS 189.210

1 shall be fined not less than twenty-five dollars (\$25) nor more than one
2 hundred dollars (\$100).

3 (c) All fines collected under this subsection, after payment of commissions to
4 officers entitled thereto, shall go to the county road fund if the offense is
5 committed in the county, or to the city street fund if committed in the city.

6 (5) Any person who violates KRS 189.370 shall for the first offense be fined not less
7 than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or
8 imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For
9 each subsequent offense occurring within three (3) years, the person shall be fined
10 not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500)
11 or imprisoned not less than sixty (60) days nor more than six (6) months, or both.
12 The minimum fine for this violation shall not be subject to suspension. A minimum
13 of six (6) points shall be assessed against the driving record of any person
14 convicted.

15 (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars
16 (\$15) in excess of the cost of the repair of the road.

17 (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than
18 twenty dollars (\$20) nor more than fifty dollars (\$50).

19 (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not
20 less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).

21 (9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-
22 five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned
23 not less than thirty (30) days nor more than twelve (12) months, or both.

24 (b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-
25 five dollars (\$35) nor more than one hundred dollars (\$100).

26 (10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a
27 Class B misdemeanor.

- 1 (11) Any person who violates subsection (3) of KRS 189.560 shall be fined not less than
2 thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.
- 3 (12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of
4 this section shall, in the case of a public highway, be paid into the county road fund,
5 and, in the case of a privately owned road or bridge, be paid to the owner. These
6 fines shall not bar an action for damages for breach of contract.
- 7 (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not
8 less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each
9 offense.
- 10 (14) Any person who violates any provision of KRS 189.575 shall be fined not less than
11 twenty dollars (\$20) nor more than twenty-five dollars (\$25).
- 12 (15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than
13 twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- 14 (16) Any person who violates restrictions or regulations established by the secretary of
15 transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense,
16 be fined one hundred dollars (\$100) and, upon subsequent convictions, be fined not
17 less than one hundred dollars (\$100) nor more than ~~two~~^{five} hundred ~~thirty~~^{fifty} dollars
18 ~~(\$250) [(\$500) or imprisoned for thirty (30) days, or both].~~
- 19 (17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty
20 of a Class B misdemeanor.
- 21 (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in
22 case of violation by any person in whose name the vehicle used in the
23 transportation of inflammable liquids or explosives is licensed, the person
24 shall be fined not less than one hundred dollars (\$100) nor more than five
25 hundred dollars (\$500). Each violation shall constitute a separate offense.
- 26 (18) Any person who abandons a vehicle upon the right-of-way of a state highway for
27 three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor

- 1 more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days
2 nor more than thirty (30) days.
- 3 (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor,
4 unless the offense is being committed by a defendant fleeing the commission of a
5 felony offense which the defendant was also charged with violating and was
6 subsequently convicted of that felony, in which case it is a Class A misdemeanor.
- 7 (20) Any law enforcement agency which fails or refuses to forward the reports required
8 by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.
- 9 (21) A person who operates a bicycle in violation of the administrative regulations
10 promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars (\$10)
11 nor more than one hundred dollars (\$100).
- 12 (22) Any person who violates KRS 189.860 shall be fined not more than ~~two~~five
13 hundred fifty dollars ~~(\$250)~~(\$500) or imprisoned for not more than six (6) months,
14 or both.
- 15 (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five
16 dollars (\$25) nor more than ~~two~~three hundred fifty dollars ~~(\$250)~~(\$300).
- 17 (24) Any person who violates the provisions of KRS 189.125(3)(a) shall be fined fifty
18 dollars (\$50). This fine shall be subject to prepayment. A fine imposed under this
19 subsection shall not be subject to court costs pursuant to KRS 24A.175, additional
20 court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765,
21 or any other additional fees or costs.
- 22 (25) Any person who violates the provisions of KRS 189.125(3)(b) shall not be issued a
23 uniform citation, but shall instead receive a courtesy warning up until July 1, 2009.
24 For a violation on or after July 1, 2009, the person shall be fined thirty dollars (\$30).
25 This fine shall be subject to prepayment. A fine imposed under this subsection shall
26 not be subject to court costs pursuant to KRS 24A.175, additional court costs
27 pursuant to KRS 24A.176, a fee imposed pursuant to KRS 24A.1765, or any other

1 additional fees or costs. A person who has not been previously charged with a
2 violation of KRS 189.125(3)(b) may elect to acquire a booster seat meeting the
3 requirements of KRS 189.125. Upon presentation of sufficient proof of the
4 acquisition, the charge shall be dismissed and no fees or costs shall be imposed.

5 (26) Any person who violates the provisions of KRS 189.125(6) shall be fined an
6 amount not to exceed twenty-five dollars (\$25). This fine shall be subject to
7 prepayment. A fine imposed under this subsection shall not be subject to court costs
8 pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee
9 imposed pursuant to KRS 24A.1765, or any other additional fees or costs.

10 (27) Fines levied pursuant to this chapter shall be assessed in the manner required by
11 KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall
12 be governed by KRS 534.020 and 534.060.

13 (28) A licensed driver under the age of eighteen (18) charged with a moving violation
14 pursuant to this chapter as the driver of a motor vehicle may be referred, prior to
15 trial, by the court to a diversionary program. The diversionary program under this
16 subsection shall consist of one (1) or both of the following:

17 (a) Execution of a diversion agreement which prohibits the driver from operating
18 a vehicle for a period not to exceed forty-five (45) days and which allows the
19 court to retain the driver's operator's license during this period; and

20 (b) Attendance at a driver improvement clinic established pursuant to KRS
21 186.574. If the person completes the terms of this diversionary program
22 satisfactorily the violation shall be dismissed.

23 (29) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall
24 be fined two hundred fifty dollars (\$250). The fines and costs for a violation of
25 subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in
26 accordance with KRS 24A.180. Once deposited into the State Treasury, ninety
27 percent (90%) of the fine collected under this subsection shall immediately be

1 forwarded to the personal care assistance program under KRS 205.900 to 205.920.
 2 Ten percent (10%) of the fine collected under this subsection shall annually be
 3 returned to the county where the violation occurred and distributed equally to all
 4 law enforcement agencies within the county.

5 (30) On or after January 1, 2011, any person who violates KRS 189.292 or 189.294
 6 shall be fined twenty-five dollars (\$25) for the first offense and fifty dollars
 7 (\$50) for each subsequent offense.

8 ➔Section 5. KRS 304.99-060 is amended to read as follows:

9 (1) (a) The owner of any vehicle who fails to have in full force and effect the security
 10 required by Subtitle 39 of this chapter shall:

- 11 1. ***For the first offense***, be fined not less than ***two***~~[five]~~ hundred ***fifty***
 12 dollars ~~(\$250)~~~~(\$500)~~ nor more than ***five hundred***~~[one thousand]~~
 13 dollars ~~(\$500)~~~~(\$1,000)~~, or sentenced to not more than ninety (90) days
 14 in jail, or both;
- 15 2. Have the registration of the motor vehicle revoked and the license plates
 16 of the vehicle suspended for a period of one (1) year or until such time
 17 as proof, in a form satisfactory to the commissioner, is furnished that the
 18 security is then and will remain in effect; and
- 19 3. For the second and each subsequent offense within any five (5) year
 20 period, have his or her operator's license revoked in accordance with
 21 KRS 186.560, and may be ~~sentenced to one hundred and eighty (180)~~
 22 ~~days in jail, or~~ fined not less than ***two hundred fifty***~~[one thousand]~~
 23 dollars ~~(\$250)~~~~(\$1,000)~~ nor more than ~~two thousand~~ five hundred
 24 dollars ~~(\$500)~~~~(\$2,500)~~, or both.

25 (b) Penalties under paragraph (a) of this subsection for the first offense are subject
 26 to conditional discharge, suspension, or other forms of reduction of penalty by
 27 judicial discretion upon production of proof of security.

- 1 (c) For the second and each subsequent offense, minimum fines, suspensions, and
 2 penalties under paragraph (a) of this subsection are subject to conditional
 3 discharge, suspension, or other forms of reduction of penalty, by judicial
 4 discretion only upon production of proof of security and a receipt showing that
 5 a premium for a minimum policy period of six (6) months has been paid.
- 6 (d) Upon expiration of the minimum six (6) month policy period, the court shall
 7 order the vehicle owner to appear before it to verify renewal of the security
 8 required by Subtitle 39 of this chapter by production of proof of security and a
 9 receipt showing that a premium for a minimum six (6) month policy period
 10 has been paid.
- 11 (e) Failure to appear shall result in the suspension of the vehicle owner's
 12 operator's license pursuant to KRS 186.570.
- 13 (f) Unless uninterrupted coverage is maintained, cancellation or expiration of the
 14 procured security before the end of the minimum six (6) month policy period
 15 shall be a Class B misdemeanor.
- 16 (g) Unless the requirement of paragraph (d) of this subsection is satisfied, the
 17 court shall revoke any conditional discharge, suspension, or other form of
 18 reduction of penalty granted under paragraph (c) of this subsection.
- 19 (2) A person who operates a motor vehicle without security on the motor vehicle as
 20 required by Subtitle 39 of this chapter shall:
- 21 (a) ***For the first offense,*** be fined not less than ~~two~~^{two} ~~[five]~~ hundred ~~fifty~~^{fifty} ~~[dollars]~~
 22 ~~(\$250)~~~~(\$500)~~ nor more than ***five hundred*** ~~[one thousand]~~ dollars
 23 ~~(\$500)~~~~(\$1,000)~~ or sentenced to not more than ninety (90) days in jail, or
 24 both; and
- 25 (b) For the second and each subsequent offense within any five (5) year period,
 26 have his or her operator's license revoked in accordance with KRS 186.560,
 27 and may be ~~sentenced to not more than one hundred eighty (180) days in jail~~

1 ~~or~~ fined not less than two hundred fifty~~[one thousand]~~ dollars
 2 (\$250)~~[\$1,000]~~ nor more than ~~[two thousand]~~ five hundred dollars
 3 (\$500)~~[\$2,500], or both~~.

4 (3) If the person who operates a motor vehicle without security on the motor vehicle as
 5 required by Subtitle 39 of this chapter is also the owner of the motor vehicle, the
 6 person shall be subject to penalties under both subsection (1) and subsection (2) of
 7 this section.

8 ➔Section 6. KRS 138.465 is amended to read as follows:

9 (1) Any person other than a dealer, as defined in KRS 186.010(10), who sells or
 10 transfers a motor vehicle in this state shall deliver to the county clerk the certificate
 11 of title with the assignment form on the reverse side properly executed and shall
 12 transfer the vehicle to the new owner within ten (10) days of the date of the sale or
 13 transfer of ownership.

14 (2) Any person who violates subsection (1) of this section shall be subject to the
 15 penalties set out in KRS 186.990(1)~~[(2)]~~.

16 ➔Section 7. KRS 194A.990 is amended to read as follows:

17 (1) Any person who violates the provisions of KRS 194A.505(1), (2), or (7) shall be
 18 guilty of:

19 (a) A Class B~~[A]~~ misdemeanor ~~if, unless~~ the sum total of benefits received in
 20 excess of that to which the person was entitled at the time of the offense was
 21 committed is valued at or below~~over~~ one hundred dollars (\$100)~~, in which~~
 22 ~~case it is a Class D felony~~;

23 (b) A Class A misdemeanor if the sum total of benefits received in excess of that
 24 to which the person was entitled at the time of the offense was committed is
 25 valued at more than one hundred dollars (\$100) but less than two thousand
 26 dollars (\$2,000); or

27 (c) A Class D felony if the sum total of benefits received in excess of that to

1 *which the person was entitled at the time of the offense was committed is*
2 *valued at or above two thousand dollars (\$2,000).*

3 (2) Any person who violates KRS 194A.505(3) shall be guilty of a Class D felony.

4 (3) Any person who violates the provisions of KRS 194A.505(4) or (5) shall be guilty
5 of a Class C felony.

6 (4) Any person who violates the provisions of KRS 194A.505(6) shall be guilty of a
7 Class D felony, unless the purpose of the violation is to obtain ten thousand dollars
8 (\$10,000) or more, in which case it shall be a Class C felony.

9 (5) Any person who violates KRS 194A.505(1) to (6) shall, in addition to any other
10 penalties provided by law, forfeit and pay a civil penalty of payment to the cabinet
11 in the amount of all benefits and payments to which the person was not entitled.

12 (6) Any provider who violates KRS 194A.505(1) to (6) shall, in addition to any other
13 penalties provided by law, including the penalty set forth in subsection (5) of this
14 section, forfeit and pay civil penalties of:

15 (a) Payment to the State Treasury's general revenue fund in an amount equal to
16 three (3) times the amount of the benefits and payments to which the person
17 was not entitled; and

18 (b) Payment to the State Treasury's general revenue fund of all reasonable
19 expenses that the court determines have been necessarily incurred by the state
20 in the enforcement of this section.

21 ➔Section 8. KRS 205.8461 is amended to read as follows:

22 (1) Except as otherwise provided in KRS 205.510 to 205.630, no provider shall
23 knowingly solicit, receive, or offer any remuneration (including any kickback, bribe,
24 or rebate) for furnishing medical assistance benefits or in return for purchasing,
25 leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering
26 any goods, facility, service, or item for which payment may be made pursuant to
27 Title XIX of the Social Security Act.

1 (2) (a) No provider shall knowingly make, offer, or receive a payment, a rebate of a
 2 fee, or a charge for referring a recipient to another provider for furnishing of
 3 benefits.

4 (b) Any conduct or activity which does not violate or which is protected under the
 5 provisions of 42 U.S.C. sec. 1395nn or 42 U.S.C. sec. 1320A-7b(b), as
 6 amended, or federal regulations promulgated under those statutes, shall not be
 7 deemed to violate the provisions of KRS 205.8451 to 205.8483, and the
 8 conduct or activity shall be accorded the same protections allowed under
 9 federal law and regulation.

10 (3) (a) Any person who violates subsection (1) or (2) of this section shall be guilty
 11 of:

12 1. A Class ~~B~~[A] misdemeanor ~~if~~[unless] the combination or aggregation of
 13 offenses is valued at or below one[three] hundred dollars ~~(\$100)~~[(~~\$300~~)
 14 ~~or more, in which case it shall be a Class D felony~~];

15 2. A Class A misdemeanor if the combination or aggregation of offenses
 16 is valued at more than one hundred dollars (\$100) but less than two
 17 thousand dollars (\$2,000); or

18 3. A Class D felony if the combination or aggregation of offenses is
 19 valued at or above two thousand dollars (\$2,000).

20 (b) In addition to any other penalty authorized by law, any person who violates
 21 the provisions of subsection (2)(a) of this section shall not be entitled to bill or
 22 collect from the recipient or any third-party payor and shall repay any
 23 payments due the Commonwealth for services provided which were related to
 24 the referral.

25 ➔Section 9. KRS 205.8463 is amended to read as follows:

26 (1) No person shall knowingly or wantonly devise a scheme or plan a scheme or
 27 artifice, or enter into an agreement, combination, or conspiracy to obtain or aid

1 another in obtaining payments from any medical assistance program under this
 2 chapter by means of any fictitious, false, or fraudulent application, claim, report, or
 3 document submitted to the Cabinet for Health and Family Services, or intentionally
 4 engage in conduct which advances the scheme or artifice.

5 (2) No person shall intentionally, knowingly, or wantonly make, present, or cause to be
 6 made or presented to an employee or officer of the Cabinet for Health and Family
 7 Services any false, fictitious, or fraudulent statement, representation, or entry in any
 8 application, claim, report, or document used in determining rights to any benefit or
 9 payment.

10 (3) No person shall, with intent to defraud, knowingly make, or induce, or seek to
 11 induce the making of a false statement or false representation of a material fact with
 12 respect to the conditions or operations of an institution or facility in order that the
 13 institution or facility may qualify, upon initial certification or upon recertification,
 14 as a hospital, skilled-nursing facility, intermediate-care facility, home-health
 15 agency, or other provider of services to the Medical Assistance Program.

16 (4) No person shall, in any matter within the jurisdiction of the Cabinet for Health and
 17 Family Services under this chapter, knowingly falsify, conceal, or cover up by any
 18 trick, scheme, or device a material fact, or make any false, fictitious, or fraudulent
 19 statement or representation, or make or use any false writing or document knowing
 20 the same to contain any false, fictitious, or fraudulent statement or entry.

21 (5) (a) Any person who violates subsections (1) and (2) of this section shall be guilty
 22 of:

23 1. A Class ~~B~~^A misdemeanor ~~if~~^{unless} the sum total of benefits or
 24 payments claimed in any application, claim, report, or document, or in
 25 any combination or aggregation thereof, is valued at or below one
 26 hundred~~three hundred~~ dollars (\$100)~~(\$300)~~ or more in which case it
 27 ~~shall be a Class D felony~~;

- 1 2. A Class A misdemeanor if the sum total of benefits or payments
- 2 claimed in any application, claim, report, or document, or in any
- 3 combination or aggregation thereof, is valued at more than one
- 4 hundred dollars (\$100) but less than two thousand dollars (\$2,000); or
- 5 3. A Class D felony if the sum total of benefits or payments claimed in
- 6 any application, claim, report, or document, or in any combination or
- 7 aggregation thereof, is valued at or above two thousand dollars
- 8 (\$2,000).

9 (b) Any person who violates the provisions of subsection (3) of this section shall
 10 be guilty of a Class C felony.

11 (c) Any person who violates the provisions of subsection (4) of this section shall
 12 be guilty of a Class D felony.

13 ➔Section 10. KRS 217.181 is amended to read as follows:

14 (1) A person is guilty of theft of a legend drug when he unlawfully takes or exercises
 15 control over a legend drug that is not a controlled substance, belonging to another
 16 person, with the intent to deprive him thereof.

17 (2) Theft of a legend drug is:

18 (a) For a first offense:

19 1. A Class B misdemeanor, if the legend drug has a value at or below
 20 one hundred dollars (\$100);

21 2. A Class A misdemeanor, if the legend drug is valued at more than one
 22 hundred dollars (\$100) but less than two thousand dollars (\$2,000); or

23 3. A Class D felony, if the legend drug has a value at or above two
 24 thousand dollars (\$2,000) but less than ten thousand~~[of three hundred]~~
 25 dollars (\$10,000)~~[((\$300) or less];~~ or

26 (b) For a second or subsequent offense, or a value at or above~~[of greater than]~~ ten
 27 thousand~~[three hundred]~~ dollars (\$10,000)~~[((\$300)]~~, a Class C felony.

1 ➔Section 11. KRS 238.995 is amended to read as follows:

- 2 (1) Any person who willfully conducts without the required license any activity which
3 under this chapter requires a license shall be guilty of a Class A misdemeanor.
- 4 (2) Any person who makes any materially false or misleading statement in making
5 application for licensure or in submitting reports required under this chapter, or any
6 person who willfully fails to maintain records or make entries required under this
7 chapter, or any person who willfully refuses to produce for inspection any books,
8 documents, or records required under this chapter shall be guilty of a Class A
9 misdemeanor.
- 10 (3) Any person who engages in conduct designed to corrupt the outcome of any
11 charitable gaming activity with purpose to defraud or knowing that he is facilitating
12 a fraud shall be guilty of:

13 **(a) A Class B misdemeanor if the amount involved is one hundred dollars**
14 **(\$100) or less;**

15 **(b) A Class A misdemeanor if the amount involved is more than one hundred**
16 **dollars (\$100) but** less than **two thousand**~~[three hundred]~~ dollars
17 **(\$2,000)~~[\$300]~~; **or**~~[and]~~**

18 **(c) A Class D felony if the amount involved is two thousand**~~[three hundred]~~
19 dollars **(\$2,000)~~[\$300]~~ or more.**

- 20 (4) Any person who knowingly diverts charitable gaming funds from legitimate
21 charitable purpose or lawful expenses allowed under this chapter to his financial
22 benefit or the financial benefit of another person shall be guilty of:

23 **(a) A Class B misdemeanor if the amount involved is one hundred dollars**
24 **(\$100) or less;**

25 **(b) A Class A misdemeanor if the amount involved is more than one hundred**
26 **dollars (\$100) but** less than **two thousand**~~[three hundred]~~ dollars
27 **(\$2,000)~~[\$300]~~; **or**~~[and]~~**

1 (c) A Class D felony if the amount involved is two thousand~~[three hundred]~~
2 dollars (\$2,000)~~[(300)]~~ or more.

3 (5) Any person who commits a second or subsequent offense within a five (5) year
4 period under subsection (1) or (2) of this section shall be guilty of a Class D felony.

5 (6) Nothing contained in this chapter shall prohibit prosecution of a violation under
6 KRS Chapter 528 by the Attorney General, county attorneys, or Commonwealth's
7 attorneys.

8 (7) No person shall make or cause a false entry to be made in the business records of a
9 charitable organization; alter, erase, obliterate, delete, remove, or destroy a true
10 entry in the business records of a charitable organization; omit to make a true entry
11 in the business records of a charitable organization in violation of a duty to do so
12 that he knows to be imposed upon him by law or by the nature of his position; or
13 prevent the making of a true entry or cause the omission thereof in the business
14 records of a charitable organization.

15 (8) Violation of subsection (7) of this section or falsifying business records of a
16 charitable organization is a Class A misdemeanor.

17 ➔Section 12. KRS 304.47-020 is amended to read as follows:

18 (1) For the purposes of this subtitle, a person or entity commits a "fraudulent insurance
19 act" if he or she engages in any of the following, including but not limited to matters
20 relating to workers' compensation:

21 (a) Knowingly and with intent to defraud or deceive presents, causes to be
22 presented, or prepares with knowledge or belief that it will be presented to an
23 insurer, Kentucky Claims Commission, Special Fund, or any agent thereof,
24 any written or oral statement as part of, or in support of, a claim for payment
25 or other benefit pursuant to an insurance policy or from a "self-insurer" as
26 defined by KRS Chapter 342, knowing that the statement contains any false,
27 incomplete, or misleading information concerning any fact or thing material to

- 1 a claim;
- 2 (b) Knowingly and with intent to defraud or deceive presents, causes to be
3 presented, or prepares with knowledge or belief that it will be presented to an
4 insurer, Kentucky Claims Commission, or any agent thereof, any statement as
5 part of, or in support of, an application for an insurance policy, for renewal,
6 reinstatement, or replacement of insurance, or in support of an application to a
7 lender for money to pay a premium, knowing that the statement contains any
8 false, incomplete, or misleading information concerning any fact or thing
9 material to the application;
- 10 (c) Knowingly and willfully transacts any contract, agreement, or instrument
11 which violates this title;
- 12 (d) Knowingly and with intent to defraud or deceive, receives money for the
13 purpose of purchasing insurance, and fails to obtain insurance;
- 14 (e) Knowingly and with intent to defraud or deceive, fails to make payment or
15 disposition of money or voucher as defined in KRS 304.17A-750, as required
16 by agreement or legal obligation, that comes into his or her possession while
17 acting as a licensee under this chapter;
- 18 (f) Issues or knowingly presents fake or counterfeit insurance policies, certificates
19 of insurance, insurance identification cards, insurance binders, or any other
20 documents that purport to evidence insurance;
- 21 (g) Makes any false or fraudulent representation as to the death or disability of a
22 policy or certificate holder in any written statement or certificate for the
23 purpose of fraudulently obtaining money or benefit from an insurer;
- 24 (h) Engages in unauthorized insurance, as defined in KRS 304.11-030;
- 25 (i) Knowingly and with intent to defraud or deceive, presents, causes to be
26 presented, or prepares with knowledge or belief that it will be presented to or
27 by an insurer, or to the commissioner, any statement, knowing that the

1 statement contains any false, incomplete, or misleading information
 2 concerning any material fact or thing, as part of, or in support of one (1) or
 3 more of the following:

- 4 1. The rating of an insurance policy;
- 5 2. The financial condition of an insurer;
- 6 3. The formation, acquisition, merger, reconsolidation, dissolution, or
 7 withdrawal from one (1) or more lines of insurance in all or part of this
 8 Commonwealth by an insurer; or
- 9 4. A document filed with the commissioner;

10 (j) Knowingly and with intent to defraud or deceive, engages in any of the
 11 following:

- 12 1. Solicitation or acceptance of new or renewal insurance risks on behalf of
 13 an insolvent insurer; or
- 14 2. Removal, concealment, alteration, tampering, or destruction of money,
 15 records, or any other property or assets of an insurer; or

16 (k) Assists, abets, solicits, or conspires with another to commit a fraudulent
 17 insurance act in violation of this subtitle.

18 (2) (a) Except as provided in paragraphs (b), ~~and (c)~~, **and (d)** of this subsection, a
 19 person convicted of a violation of subsection (1) of this section shall be guilty
 20 of a **Class B** misdemeanor where the aggregate of the claim, benefit, or money
 21 referred to in subsection (1) of this section is less than or equal to **one**
 22 **hundred**~~five hundred~~ dollars **(\$100)**~~(\$500)~~, and shall be punished by:

- 23 **1. Imprisonment for not more than ninety (90) days;**
- 24 **2. A fine, per occurrence, of not more than two hundred fifty dollars**
 25 **(\$250) per individual nor five thousand dollars (\$5,000) per**
 26 **corporation or twice the amount of gain received as a result of the**
 27 **violation, whichever is greater; or**

1 3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2.
2 of this paragraph.

3 (b) Except as provided in paragraphs (a), (c), and (d) of this subsection, a
4 person convicted of a violation of subsection (1) of this section shall be
5 guilty of a Class A misdemeanor where the aggregate of the claim, benefit,
6 or money referred to in subsection (1) of this section is more than one
7 hundred dollars (\$100) but less than two thousand dollars (\$2,000), and
8 shall be punished by:

- 9 1. Imprisonment for at least ninety (90) days but not more than one (1)
- 10 year;
- 11 2. A fine, per occurrence, of not more than five hundred~~one thousand~~
- 12 dollars (\$500)~~(\$1,000)~~ per individual nor ten~~five~~ thousand dollars
- 13 (\$10,000)~~(\$5,000)~~ per corporation or twice the amount of gain
- 14 received as a result of the violation, whichever is greater; or
- 15 3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of
- 16 this paragraph.

17 ~~(c)~~~~(b)~~ Except as provided in paragraph ~~(d)~~~~(e)~~ of this subsection, where the
18 claim, benefit, or money referred to in subsection (1) of this section equals or
19 exceeds an aggregate of two thousand~~five hundred~~ dollars (\$2,000)~~(\$500)~~,
20 a person convicted of a violation of subsection (1) of this section shall be
21 guilty of a Class D felony and shall be punished by:

- 22 1. Imprisonment for not less than one (1) nor more than five (5) years;
- 23 2. A fine, per occurrence, of not more than ten thousand dollars (\$10,000)
- 24 per individual nor one hundred thousand dollars (\$100,000) per
- 25 corporation or twice the amount of gain received as a result of the
- 26 violation, whichever is greater; or
- 27 3. Both imprisonment and a fine as set forth in subparagraphs 1. and 2. of

1 this paragraph.

2 ~~(d)~~~~(e)~~ Any person, with the purpose to establish or maintain a criminal
3 syndicate, or to facilitate any of its activities, as set forth in KRS 506.120(1),
4 shall be guilty of engaging in organized crime, a Class B felony, and shall be
5 punished by:

- 6 1. Imprisonment for not less than ten (10) years nor more than twenty (20)
7 years;
- 8 2. A fine, per occurrence, of not more than ten thousand dollars (\$10,000)
9 per individual nor one hundred thousand dollars (\$100,000) per
10 corporation, or twice the amount of gain received as a result of the
11 violation; whichever is greater; or
- 12 3. Both imprisonment and a fine, as set forth in subparagraphs 1. and 2. of
13 this paragraph.

14 ~~(e)~~~~(d)~~ In addition to imprisonment, the assessment of a fine, or both, a person
15 convicted of a violation of paragraph (a), (b), ~~(c)~~, or (d) of subsection (2)
16 of this section may be ordered to make restitution to any victim who suffered
17 a monetary loss due to any actions by that person which resulted in the
18 adjudication of guilt, and to the division for the cost of any investigation. The
19 amount of restitution shall equal the monetary value of the actual loss or twice
20 the amount of gain received as a result of the violation, whichever is greater.

21 (3) Any person damaged as a result of a violation of any provision of this section when
22 there has been a criminal adjudication of guilt shall have a cause of action to
23 recover compensatory damages, plus all reasonable investigation and litigation
24 expenses, including attorneys' fees, at the trial and appellate courts.

25 (4) The provisions of this section shall also apply to any agent, unauthorized insurer or
26 its agents or representatives, or surplus lines carrier who, with intent, injures,
27 defrauds, or deceives any claimant with regard to any claim. The claimant shall

1 have the right to recover the damages provided in subsection (3) of this section.

2 ➔Section 13. KRS 341.990 is amended to read as follows:

- 3 (1) Except as otherwise provided in subsection (11) of this section, any employee of
4 any state agency who violates any of the provisions of KRS 341.110 to 341.230
5 shall be guilty of a Class B misdemeanor.
- 6 (2) Any person subpoenaed to appear and testify or produce evidence in an inquiry,
7 investigation, or hearing conducted under this chapter who fails to obey the
8 subpoena shall be guilty of a Class B misdemeanor.
- 9 (3) Any subject employer, or officer or agent of a subject employer, who violates
10 subsection (1) of KRS 341.470 shall be guilty of a Class A misdemeanor.
- 11 (4) Any person who violates subsection (2) of KRS 341.470 shall be guilty of a Class A
12 misdemeanor.
- 13 (5) Any person who knowingly makes a false statement or representation of a material
14 fact or knowingly fails to disclose a material fact to the secretary to obtain or
15 increase any benefit under this chapter or under an employment security law of any
16 other state, or of the federal government, either for himself or for any other person,
17 business entity, or organization shall be guilty of:
- 18 (a) A Class ~~B~~^A misdemeanor ~~if~~^{unless} the value of the benefits procured or
19 attempted to be procured is one hundred dollars (\$100) or ~~less~~^{more, in which}
20 ~~case he shall be guilty of a Class D felony~~;
- 21 (b) ***A Class A misdemeanor if the value of the benefits procured or attempted to***
22 ***be procured is more than one hundred dollars (\$100) but less than two***
23 ***thousand dollars (\$2,000); or***
- 24 (c) ***A Class D felony if the value of the benefits procured or attempted to be***
25 ***procured is two thousand dollars (\$2,000) or more.***
- 26 (6) (a) Any person who knowingly makes a false statement or representation, or who
27 knowingly fails to disclose a material fact to prevent or reduce the payment of

1 benefits to any worker entitled thereto, or to avoid becoming or remaining
 2 subject to this chapter, or to avoid or reduce any payment required of an
 3 employing unit under this chapter shall be guilty of:

4 1. A Class ~~B~~^A misdemeanor ~~if~~^{unless} the liability avoided or attempted
 5 to be avoided is one hundred dollars (\$100) or ~~less~~^{more, in which case}
 6 ~~he shall be guilty of a Class D felony~~;

7 2. A Class A misdemeanor if the liability avoided or attempted to be
 8 avoided is more than one hundred dollars (\$100) but less than two
 9 thousand dollars (\$2,000); or

10 3. A Class D felony if the liability avoided or attempted to be avoided is
 11 two thousand dollars (\$2,000) or more.

12 (b) Any person who willfully fails or refuses to furnish any reports required, or to
 13 produce or permit the inspection or copying of records required in this chapter
 14 shall be guilty of a Class B misdemeanor. Each such false statement,
 15 representation or failure and each day of failure or refusal shall constitute a
 16 separate offense.

17 (7) In any prosecution for the violation of subsection (5) or (6) of this section, it shall
 18 be a defense if the person relied on the advice of an employee or agent of the Office
 19 of Employment and Training, Department of Workforce Investment.

20 (8) Any person who willfully violates any provision of this chapter or any rule or
 21 regulation under it, the violation of which is made unlawful or the observance of
 22 which is required under the terms of this chapter, and for which no specific penalty
 23 is prescribed in this chapter or in any other applicable statute, shall be guilty of a
 24 violation. Each day the violation continues shall constitute a separate offense.

25 (9) In addition to the higher rates imposed under KRS 341.540(7), any person, whether
 26 or not an employing unit, who knowingly advises or assists an employing unit in the
 27 violation or attempted violation of KRS 341.540 or any other provision of this

1 chapter related to determining the assignment of a contribution rate shall be subject
2 to a civil monetary penalty of not less than five thousand dollars (\$5,000).

3 (10) Proceeds from all penalties imposed under subsection (9) of this section and KRS
4 341.540 shall be deposited in the unemployment compensation administration
5 account and shall be expended solely for the cost of administration of this chapter
6 consistent with KRS 341.240.

7 (11) Any person who violates the confidentiality provision in KRS 341.190(4) shall be
8 guilty of a Class A misdemeanor.

9 ➔Section 14. KRS 365.241 is amended to read as follows:

10 (1) As used in this section:

11 (a) "Counterfeit mark" means:

- 12 1. Any unauthorized reproduction or copy of intellectual property; or
- 13 2. Intellectual property knowingly affixed to any item without the authority
14 of the owner of the intellectual property.

15 (b) "Intellectual property" means any trademark, service mark, trade name, label,
16 term, device, design, or word adopted or used by a person to identify the
17 person's goods or services.

18 (c) "Person" includes, in addition to its meaning under KRS 446.010, any
19 association, organization, or entity amenable to suit in a court of law.

20 (d) "Retail value" means the counterfeiter's regular selling price for the item or
21 service bearing or identified by the counterfeit mark. In the case of items
22 bearing a counterfeit mark which are components of a finished product, the
23 retail value shall be the counterfeiter's regular selling price of the finished
24 product on or in which the component would be utilized.

25 (2) Any person who willfully manufactures, uses, displays, advertises, distributes,
26 offers for sale, sells, or possesses with intent to sell or distribute any item or service
27 that the person knows bears or is identified by a counterfeit mark shall be guilty of

1 counterfeiting.

2 (3) A person having possession, custody, or control of more than twenty-five (25) items
3 that the person knows bear or are identified by a counterfeit mark shall be presumed
4 to possess the items with the intent to sell or distribute.

5 (4) (a) Any person who violates the provisions of this section shall be guilty of a
6 Class A misdemeanor, except~~[-where]:~~

7 **1. The violation shall be a Class D felony where:**

8 **a.** The person has been previously convicted of a violation of this
9 section;~~[-or]~~

10 **b.** The violation involves more than one hundred (100) items bearing
11 a counterfeit mark; or

12 **c.** The total retail value of all items bearing, or services identified by,
13 a counterfeit mark is more than ~~two[one]~~ thousand dollars
14 ~~(\$2,000)[(\$1,000), in which case the person shall be guilty of a~~
15 ~~Class D felony]; and~~

16 **2. The violation shall be a Class B misdemeanor where the total retail**
17 **value of all items bearing, or services identified by, a counterfeit mark**
18 **is one hundred dollars (\$100) or less.**

19 **(b)** Unless reduced by the court for extenuating circumstances and
20 notwithstanding KRS Chapter 534, upon conviction the offender shall, in
21 addition to any other allowable disposition, be fined an amount equal to the
22 greater of:

23 **1.[(a)]** Three (3) times the retail value of the items bearing, or services
24 identified by, the counterfeit mark;

25 **2.[(b)]** Double the amount of the defendant's gain from commission of the
26 offense; or

27 **3.[(c)]** As otherwise allowed in KRS Chapter 534 for felonies and

1 misdemeanors.

2 (5) For purposes of this section, the quantity or retail value of items or services shall
3 include the aggregate quantity or retail value of all items bearing, or services
4 identified by, every counterfeit mark the defendant manufactures, uses, displays,
5 advertises, distributes, offers for sale, sells, or possesses.

6 (6) Except for items in the possession of a person not in violation of this section, any
7 items bearing a counterfeit mark, and all personal property, including but not
8 limited to, any items, objects, tools, machines, equipment, instrumentalities, or
9 vehicles of any kind, employed or used in connection with a violation of this section
10 shall be seized by any law enforcement officer.

11 (a) Except as otherwise provided in this subsection, all personal property seized
12 under this subsection shall be forfeited in accordance with KRS 431.100.

13 (b) Upon request of the intellectual property owner, all seized items bearing a
14 counterfeit mark shall be released to the intellectual property owner.

15 (c) If the intellectual property owner does not request release of seized items
16 bearing a counterfeit mark, the items shall be destroyed unless the intellectual
17 property owner consents to another disposition.

18 (7) Any state or federal certificate of registration of any intellectual property shall be
19 prima facie evidence of the facts stated in the certificate.

20 (8) The remedies provided in this section shall be cumulative to other civil and criminal
21 remedies provided by law.

22 (9) Notwithstanding any statute to the contrary, fines imposed under this section shall
23 be paid into the crime victims' compensation fund established in KRS 49.480.

24 ➔Section 15. KRS 434.650 is amended to read as follows:

25 (1) A person who, with intent to defraud the issuer, a participating party, a person, or
26 organization providing money, goods, services, or anything else of value, or any
27 other person:

- 1 (a) Uses for the purpose of obtaining money, goods, services, or anything else of
 2 value a credit or debit card obtained or retained in violation of KRS 434.570
 3 to 434.650, or any of such sections, or a credit or debit card which he knows is
 4 forged, expired, or revoked; or
- 5 (b) Obtains money, goods, services, or anything else of value by representing
 6 without consent of the cardholder that he is the holder of a specified card or by
 7 representing that he is the holder of a card and such card has not in fact been
 8 issued; or
- 9 (c) Uses a credit or debit card obtained or retained in violation of KRS 434.570 to
 10 434.650, or any of such sections, or a credit or debit card which he knows is
 11 forged, expired, or revoked, as authority or identification to cash or attempts
 12 to cash or otherwise negotiate or transfer a check or other order for payment of
 13 money, whether or not negotiable, if said negotiation or transfer or attempt to
 14 negotiate or transfer would constitute a crime under KRS 514.040 or 516.030;
 15 or
- 16 (d) Deposits into his account or any account, via an automated banking device, a
 17 false, fictitious, forged, altered, or counterfeit check, draft, money order, or
 18 any other such document not his lawful or legal property,
- 19 is guilty of a Class ~~B~~[A] misdemeanor, if the value of all money, goods, services, or
 20 other things of value obtained in violation of this section over a six (6) month
 21 period is one~~[less than five]~~ hundred dollars (\$100) or less~~[((\$500))]~~, a Class A
 22 misdemeanor if such value is more than one hundred dollars (\$100) but less than
 23 two thousand dollars (\$2,000), a Class D felony if such value is two thousand~~[five~~
 24 ~~hundred]~~ dollars (\$2,000)~~[((\$500))]~~ or more but is less than ten thousand dollars
 25 (\$10,000), or a Class C felony if such value is ten thousand dollars (\$10,000) or
 26 more.
- 27 (2) A person who receives money, goods, services, or anything else of value as a result

1 of a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any
 2 other such document having been deposited into an account via an automated
 3 banking device, knowing at the time of receipt of the money, goods, services, or
 4 item of value that the document so deposited was false, fictitious, forged, altered, or
 5 counterfeit or that the above described deposited item was not his lawful or legal
 6 property, violates this subsection and is subject to the penalties set forth in
 7 subsection (1) of this section.

8 (3) Knowledge of revocation shall be presumed to have been received by a cardholder
 9 four (4) days after it has been mailed to him at the address set forth on the credit or
 10 debit card or at his last known address by registered or certified mail, return receipt
 11 requested, and, if the address is more than five hundred (500) miles from the place
 12 of mailing, by air mail. If the address is located outside the United States, Puerto
 13 Rico, the Virgin Islands, the Canal Zone, and Canada, notice shall be presumed to
 14 have been received ten (10) days after mailing by registered or certified mail.

15 ➔Section 16. KRS 434.655 is amended to read as follows:

16 (1) A cardholder who fraudulently uses a credit or debit card to obtain money, goods,
 17 services, or anything else of value after said cardholder has reported to the issuer
 18 said credit or debit card lost, as stolen, or not received is deemed to have used said
 19 credit or debit card in order to defraud the issuer; and said cardholder shall be guilty
 20 of a Class ~~B~~**A** misdemeanor if the value of all money, goods, services, or other
 21 things of value furnished in violation of this section over a six (6) month period is
 22 ~~one~~**one** ~~less than five~~ hundred dollars ~~(\$100) or less~~**(\$100) or less** ~~(\$500)~~, **a Class A misdemeanor**
 23 **if such value is more than one hundred dollars (\$100) but less than two thousand**
 24 **dollars (\$2,000)**, a Class D felony if such value is ~~two thousand~~**two thousand** ~~five hundred~~
 25 dollars ~~(\$2,000)~~**(\$2,000)** ~~(\$500)~~ or more but is less than ten thousand dollars (\$10,000), or
 26 a Class C felony if such value is ten thousand dollars (\$10,000) or more.

27 (2) A cardholder who, after using a credit or debit card, fraudulently reports to the

1 issuer that such usage or transaction was not made by said cardholder, or that said
 2 credit or debit card was lost, stolen, or not received at the time of such usage or
 3 transaction, in order to defraud the issuer, the cardholder, or any other person in
 4 connection with said usage, shall be guilty of a Class **B**[A] misdemeanor if the
 5 value of all money, goods, services, or other things of value furnished in violation
 6 of this section over a six (6) month period is one[~~less than five~~] hundred dollars
 7 (\$100) or less[~~(\$500)~~], a Class A misdemeanor if such value is more than one
 8 hundred dollars (\$100) but less than two thousand dollars (\$2,000), a Class D
 9 felony if such value is two thousand[~~five hundred~~] dollars (\$2,000)[~~(\$500)~~] or more
 10 but is less than ten thousand dollars (\$10,000), or a Class C felony if such value is
 11 ten thousand dollars (\$10,000) or more.

12 ➔Section 17. KRS 434.660 is amended to read as follows:

13 A person, business organization, or financial institution who is authorized by an issuer to
 14 furnish money, goods, services, or anything else of value upon presentation of a credit or
 15 debit card by a cardholder, or any agent or employee of such person, business
 16 organization, or financial institution, who, with intent to defraud the issuer, a
 17 participating party, the cardholder, or any other person, furnishes money, goods, or
 18 services or anything else of value upon presentation of a credit or debit card obtained or
 19 retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or
 20 debit card which he knows is forged, expired, or revoked is guilty of a Class **B**[A]
 21 misdemeanor, if the value of all money, goods, services, or other things of value
 22 furnished in violation of this section over a six (6) month period is one[~~less than five~~]
 23 hundred dollars (\$100) or less[~~(\$500)~~], a Class A misdemeanor if such value is more
 24 than one hundred dollars (\$100) but less than two thousand dollars (\$2,000), a Class D
 25 felony if such value is two thousand[~~five hundred~~] dollars (\$2,000)[~~(\$500)~~] or more but
 26 is less than ten thousand dollars (\$10,000), or a Class C felony if such value is ten
 27 thousand dollars (\$10,000) or more.

1 ➔Section 18. KRS 434.670 is amended to read as follows:

2 A person, business organization, or financial institution who is authorized by an issuer to
3 furnish money, goods, services, or anything else of value upon presentation of a credit or
4 debit card by a cardholder, or any agent or employee of such person, business
5 organization, or financial institution, who, with intent to defraud the issuer, a
6 participating party, the cardholder, or any other person, fails to furnish money, goods,
7 services, or anything else of value which he represents in writing to the issuer that he has
8 furnished over a six (6) month period is guilty of a Class ~~B~~[A] misdemeanor if the
9 difference between the value of all money, goods, services, or anything else of value
10 actually furnished and the value represented to the issuer to have been furnished is
11 ~~one~~[less than five] hundred dollars (\$100) or less[~~(\$500)~~], a Class A misdemeanor if
12 such value is more than one hundred dollars (\$100) but less than two thousand
13 (\$2,000), a Class D felony if such value is two thousand[~~five hundred~~]
14 (\$2,000)[~~(\$500)~~] or more but is less than ten thousand dollars (\$10,000), or a Class C
15 felony if such value is ten thousand dollars (\$10,000) or more.

16 ➔Section 19. KRS 434.690 is amended to read as follows:

17 (1) A person who receives money, goods, services, or anything else of value obtained in
18 violation of KRS 434.650, knowing or believing that it was so obtained is guilty of
19 a Class ~~B~~[A] misdemeanor, if the value of all money, goods, services, and other
20 things of value received in violation of this section over a six (6) month period is
21 ~~one~~[less than five] hundred dollars (\$100) or less[~~(\$500)~~], a Class A misdemeanor
22 if such value is more than one hundred dollars (\$100) but less than two thousand
23 dollars (\$2,000), a Class D felony if such value is two thousand[~~five hundred~~]
24 dollars (\$2,000)[~~(\$500)~~] or more but is less than ten thousand dollars (\$10,000), or
25 a Class C felony if such value is ten thousand dollars (\$10,000) or more.

26 (2) A person who possesses three (3) or more tickets for airline, railroad, steamship, or
27 other transportation service, which tickets were obtained by the use of a stolen or

1 forged credit or debit card is presumed to know that such tickets were so obtained.

2 ➔Section 20. KRS 434.850 is amended to read as follows:

3 (1) A person is guilty of unlawful access to a computer in the second degree when he or
4 she, without the effective consent of the owner, knowingly and willfully, directly or
5 indirectly accesses, causes to be accessed, or attempts to access any computer
6 software, computer program, data, computer, computer system, computer network,
7 or any part thereof, which results in the loss or damage of **two thousand**~~three~~
8 ~~hundred~~ dollars **(\$2,000)**~~(\$300)~~ or more.

9 (2) Unlawful access to a computer in the second degree is a Class D felony.

10 ➔Section 21. KRS 434.851 is amended to read as follows:

11 (1) A person is guilty of unlawful access in the third degree when he or she, without the
12 effective consent of the owner, knowingly and willfully, directly or indirectly
13 accesses, causes to be accessed, or attempts to access any computer software,
14 computer program, data, computer, computer system, computer network, or any part
15 thereof, which results in the loss or damage of **more**~~less~~ than **one**~~three~~
16 ~~hundred~~ dollars **(\$100)**~~(\$300)~~ **but less than two thousand dollars (\$2,000)**.

17 (2) Unlawful access to a computer in the third degree is a Class A misdemeanor.

18 ➔Section 22. KRS 434.853 is amended to read as follows:

19 (1) A person is guilty of unlawful access in the fourth degree when he or she, without
20 the effective consent of the owner, knowingly and willfully, directly or indirectly
21 accesses, causes to be accessed, or attempts to access any computer software,
22 computer program, data, computer, computer system, computer network, or any part
23 thereof, which **results**~~does not result~~ in loss or damage **of one hundred dollars**
24 **(\$100) or less**.

25 (2) Unlawful access to a computer in the fourth degree is a Class B misdemeanor.

26 ➔Section 23. KRS 514.030 is amended to read as follows:

27 (1) Except as otherwise provided in KRS 217.181, a person is guilty of theft by

1 unlawful taking or disposition when he unlawfully:

2 (a) Takes or exercises control over movable property of another with intent to
3 deprive him thereof; or

4 (b) Obtains immovable property of another or any interest therein with intent to
5 benefit himself or another not entitled thereto.

6 (2) Theft by unlawful taking or disposition is a Class A misdemeanor unless:

7 (a) The property is a firearm (regardless of the value of the firearm), in which
8 case it is a Class D felony;

9 (b) The property is anhydrous ammonia (regardless of the value of the ammonia),
10 in which case it is a Class D felony unless it is proven that the person violated
11 this section with the intent to manufacture methamphetamine in violation of
12 KRS 218A.1432, in which case it is a Class B felony for the first offense and a
13 Class A felony for each subsequent offense;

14 (c) The property is one (1) or more controlled substances valued collectively at
15 less than ten thousand dollars (\$10,000), in which case it is a Class D felony;

16 (d) **The value of the property is one hundred dollars (\$100) or less, in which**
17 **case it is a Class B misdemeanor;**

18 (e) The value of the property is **two thousand**~~five hundred~~ dollars
19 **(\$2,000)**~~(\$500)~~ or more but less than ten thousand dollars (\$10,000), in
20 which case it is a Class D felony;

21 ~~(f)~~~~(e)~~ The value of the property is ten thousand dollars (\$10,000) or more but
22 less than one million dollars (\$1,000,000), in which case it is a Class C felony;

23 ~~(g)~~~~(f)~~ The value of the property is one million dollars (\$1,000,000) or more but
24 less than ten million dollars (\$10,000,000), in which case it is a Class B
25 felony; or

26 ~~(h)~~~~(g)~~ The value of the property is ten million dollars (\$10,000,000) or more,
27 in which case it is a Class B felony.

1 (3) Any person convicted under subsection (2)(~~h~~)(~~g~~) of this section shall not be
 2 released on probation or parole until he or she has served at least fifty percent (50%)
 3 of the sentence imposed, any statute to the contrary notwithstanding.

4 **(4) If any person commits two (2) or more separate offenses of theft by unlawful**
 5 **taking or disposition within one hundred eighty (180) days, the offenses may be**
 6 **combined and treated as a single offense, and the value of the property in each**
 7 **offense may be aggregated for the purpose of determining the appropriate**
 8 **charge. This subsection does not apply to a defendant whose criminal behavior**
 9 **has been determined by the court to be driven by substance abuse. In making this**
 10 **determination, the court may consider convictions within the previous two (2)**
 11 **years for a violation of Section 34 of this Act or a clinical assessment.**

12 ➔Section 24. KRS 514.040 is amended to read as follows:

13 (1) A person is guilty of theft by deception when the person obtains property or services
 14 of another by deception with intent to deprive the person thereof. A person deceives
 15 when the person intentionally:

16 (a) Creates or reinforces a false impression, including false impressions as to law,
 17 value, intention, or other state of mind;

18 (b) Prevents another from acquiring information which would affect judgment of
 19 a transaction;

20 (c) Fails to correct a false impression which the deceiver previously created or
 21 reinforced or which the deceiver knows to be influencing another to whom the
 22 person stands in a fiduciary or confidential relationship;

23 (d) Fails to disclose a known lien, adverse claim, or other legal impediment to the
 24 enjoyment of property which the person transfers or encumbers in
 25 consideration for the property obtained, whether the impediment is or is not
 26 valid or is or is not a matter of official record; or

27 (e) Issues or passes a check or similar sight order for the payment of money,

1 knowing that it will not be honored by the drawee.

2 (2) The term "deceive" does not, however, include falsity as to matters having no
3 pecuniary significance or puffing by statements unlikely to deceive ordinary persons
4 in the group addressed.

5 (3) Deception as to a person's intention to perform a promise shall not be inferred from
6 the fact alone that he did not subsequently perform the promise.

7 (4) For purposes of subsection (1) of this section, a maker of a check or similar sight
8 order for the payment of money is presumed to know that the check or order, other
9 than a postdated check or order, would not be paid, if:

10 (a) The maker had no account with the drawee at the time the check or order was
11 issued; or

12 (b) Payment was refused by the drawee for lack of funds, upon presentation
13 within thirty (30) days after issue, and the maker failed to make good within
14 ten (10) days after receiving notice of that refusal. Notice of the refusal may
15 include a citation to this section and a description of this section's criminal
16 penalties and shall be deemed properly addressed when mailed to the address
17 printed or written on the check or sight order or provided by the drawer or
18 maker upon issuance of the check or sight order. The notice, if mailed, shall
19 be deemed received by the addressee seven (7) days after it is placed in the
20 United States mail. The notice may be sent by first-class mail if supported by
21 an affidavit of service setting out the contents of the notice, the address to
22 which the notice was mailed, that correct postage was applied, and the date
23 the notice was placed in the United States mail. A maker makes good on a
24 check or similar sight order for the payment of money by paying to the holder
25 the face amount of the instrument, together with any merchant's posted bad
26 check handling fee not to exceed fifty dollars (\$50) and any fee imposed
27 pursuant to subsection (5) of this section.

- 1 (5) If a county attorney issues notice to a maker that a drawee has refused to honor an
 2 instrument due to a lack of funds as described in subsection (4)(b) of this section,
 3 the county attorney may charge a fee to the maker of fifty dollars (\$50), if the
 4 instrument is paid. Money paid to the county attorney pursuant to this section shall
 5 be used only for payment of county attorney office operating expenses. Excess fees
 6 held by the county attorney on June 30 of each year shall be turned over to the
 7 county treasurer before the end of the next fiscal year for use by the fiscal court of
 8 the county.
- 9 (6) A person is guilty of theft by deception when the person issues a check or similar
 10 sight order in payment of all or any part of any tax payable to the Commonwealth
 11 knowing that it will not be honored by the drawee.
- 12 (7) A person is guilty of theft by deception when the person issues a check or similar
 13 sight order in payment of all or any part of a child support obligation knowing that it
 14 will not be honored by the drawee.
- 15 (8) Theft by deception is a Class A misdemeanor unless the value of the property,
 16 service, or the amount of the check or sight order referred to in subsection (6) or (7)
 17 of this section is:
- 18 (a) One hundred dollars (\$100) or less, in which case it is a Class B
 19 misdemeanor;
- 20 (b) Two thousand~~Five hundred~~ dollars (\$2,000)~~(\$500)~~ or more but less than
 21 ten thousand dollars (\$10,000), in which case it is a Class D felony; or
- 22 (c)~~(b)~~ Ten thousand dollars (\$10,000) or more, in which case it is a Class C
 23 felony.
- 24 ➔Section 25. KRS 514.050 is amended to read as follows:
- 25 (1) Except as provided in KRS 365.710, a person is guilty of theft of property lost,
 26 mislaid, or delivered by mistake when:
- 27 (a) He comes into control of the property of another that he knows to have been

1 lost, mislaid, or delivered under a mistake as to the nature or amount of the
2 property or the identity of the recipient; and

3 (b) With intent to deprive the owner thereof, he fails to take reasonable measures
4 to restore the property to a person entitled to have it.

5 (2) Theft of property lost, mislaid, or delivered by mistake is a Class A misdemeanor
6 unless the value of the property is:

7 (a) One hundred dollars (\$100) or less, in which case it is a Class B
8 misdemeanor;

9 (b) Two thousand~~Five hundred~~ dollars (\$2,000)~~(\$500)~~ or more but less than
10 ten thousand dollars (\$10,000), in which case it is a Class D felony; or

11 (c)~~(b)~~ Ten thousand dollars (\$10,000) or more, in which case it is a Class C
12 felony.

13 ➔Section 26. KRS 514.060 is amended to read as follows:

14 (1) A person is guilty of theft of services when:

15 (a) The person intentionally obtains services by deception or threat or by false
16 token or other means to avoid payment for the services which he knows are
17 available only for compensation;

18 (b) The person intentionally obtains wireless communications services or access
19 to services by any of the following means:

20 1. Unauthorized interception of any electronic serial number, mobile
21 identification number, personal identification number, or like identifying
22 number;

23 2. Unauthorized interception of any cellular service or personal
24 communications service as terms may be defined in 47 C.F.R. parts 22
25 and 24 respectively;

26 3. Unauthorized interception of any similar telephone service; or

27 4. Use of deception, threat, or other means to avoid payment for the

1 services which the person knows are available only for charge or
2 compensation; or

3 (c) Having control over or unauthorized access to the use of the services of others
4 to which the person is not entitled, the person intentionally diverts the services
5 to the person's own benefit or the benefit of another not entitled thereto.

6 (2) Where compensation for services is ordinarily paid immediately upon the rendering
7 of the services, as in the case of hotels and restaurants, refusal to pay or absconding
8 without payment or offer to pay shall be prima facie evidence that the services were
9 obtained by deception as to intention to pay.

10 (3) In any prosecution for theft of gas, water, electricity, or other public service, where
11 the utility supplying the service had installed a meter or other device to record the
12 amount of service supplied, proof that:

13 (a) The meter or other device has been altered, tampered with, or bypassed in a
14 manner so as to prevent or reduce the recording thereof; or

15 (b) Service has been, after having been disconnected by the utility supplying
16 service, reconnected without authorization of the utility

17 shall be prima facie evidence of the intent to commit theft of service by the person
18 or persons obligated to pay for service supplied through the meter or other device.

19 (4) Theft of services is a Class A misdemeanor unless the value of the service is:

20 (a) One hundred dollars (\$100) or less, in which case it is a Class B
21 misdemeanor;

22 (b) Two thousand~~Five hundred~~ dollars (\$2,000)~~(\$500)~~ or more but less than
23 ten thousand dollars (\$10,000), in which case it is a Class D felony; or

24 (c)~~(b)~~ Ten thousand dollars (\$10,000) or more, in which case it is a Class C
25 felony.

26 ➔Section 27. KRS 514.070 is amended to read as follows:

27 (1) A person is guilty of theft by failure to make required disposition of property

1 received when:

2 (a) He obtains property upon agreement or subject to a known legal obligation to
3 make specified payment or other disposition whether from such property or its
4 proceeds or from his own property to be reserved in equivalent amount; and

5 (b) He intentionally deals with the property as his own and fails to make the
6 required payment or disposition.

7 (2) The provisions of subsection (1) apply notwithstanding that it may be impossible to
8 identify particular property as belonging to the victim at the time of the actor's
9 failure to make the required payment or disposition.

10 (3) An officer or employee of the government or of a financial institution is presumed:

11 (a) To know any legal obligation relevant to his criminal liability under this
12 section; and

13 (b) To have dealt with the property as his own when:

14 1. He fails to account or pay upon lawful demand; or

15 2. An audit reveals a shortage or falsification of accounts.

16 (4) Theft by failure to make required disposition of property received is a Class A
17 misdemeanor unless the value of the property is:

18 (a) One hundred dollars (\$100) or less, in which case it is a Class B
19 misdemeanor;

20 (b) Two thousand~~Five hundred~~ dollars (\$2,000)~~(\$500)~~ or more but less than
21 ten thousand dollars (\$10,000), in which case it is a Class D felony; or

22 (c)~~(b)~~ Ten thousand dollars (\$10,000) or more, in which case it is a Class C
23 felony.

24 (5) No person shall be convicted of theft by failure to make required disposition of
25 property received when he or she has also been convicted of a violation of KRS
26 522.050 arising out of the same incident.

27 ➔Section 28. KRS 514.080 is amended to read as follows:

- 1 (1) A person is guilty of theft by extortion when he intentionally obtains property of
2 another by threatening to:
- 3 (a) Inflict bodily injury on anyone or commit any other criminal offense; or
4 (b) Accuse anyone of a criminal offense; or
5 (c) Expose any secret tending to subject any person to hatred, contempt, or
6 ridicule, or to impair his credit or business repute; or
7 (d) Use wrongfully his position as a public officer or servant or employee by
8 performing some act within or related to his official duties, either expressed or
9 implied, or by refusing or omitting to perform an official duty, either
10 expressed or implied, in a manner affecting some person adversely; or
11 (e) Bring about or continue a strike, boycott, or other collective unofficial action,
12 if the property is not demanded or received for the benefit of the group in
13 whose interest the actor purports to act; or
14 (f) Testify or provide information or withhold testimony or information with
15 respect to another's legal claim or defense.
- 16 (2) It is a defense to prosecution based on subsection (1)(b), (c), or (d) that the property
17 obtained by threat of accusation, exposure, lawsuit, or other invocation of official
18 action was claimed as restitution or indemnification for harm done in the
19 circumstances to which accusation, exposure, lawsuit, or other official action
20 relates, or as compensation for property or lawful services.
- 21 (3) Theft by extortion is a Class A misdemeanor unless the value of the property
22 obtained is:
- 23 (a) One hundred dollars (\$100) or less, in which case it is a Class B
24 misdemeanor;
- 25 (b) Two thousand~~Five hundred~~ dollars (\$2,000)~~(\$500)~~ or more but less than
26 ten thousand dollars (\$10,000), in which case it is a Class D felony; or
27 (c)~~(b)~~ Ten thousand dollars (\$10,000) or more, in which case it is a Class C

1 felony.

2 ➔Section 29. KRS 514.090 is amended to read as follows:

3 (1) A person is guilty of theft of labor already rendered when, in payment of labor
4 already rendered by another, he intentionally issues or passes a check or similar
5 sight order for the payment of money, knowing that it will not be honored by the
6 drawee.

7 (2) For purposes of subsection (1) of this section, an issuer of a check or similar sight
8 order for the payment of money is presumed to know that the check or order, other
9 than a postdated check or order, would not be paid, if:

10 (a) The issuer had no account with the drawee at the time the check or order was
11 issued; or

12 (b) Payment was refused by the drawee for lack of funds, upon presentation
13 within thirty days (30) after issue, and the issuer failed to make good within
14 ten (10) days after receiving notice of that refusal.

15 (3) Theft of labor already rendered is a Class A misdemeanor unless the value of the
16 labor rendered is:

17 (a) One hundred dollars (\$100) or less, in which case it is a Class B
18 misdemeanor;

19 (b) Two thousand~~Five hundred~~ dollars (\$2,000)~~(\$500)~~ or more but less than
20 ten thousand dollars (\$10,000), in which case it is a Class D felony; or

21 (c)~~(b)~~ Ten thousand dollars (\$10,000) or more, in which case it is a Class C
22 felony.

23 ➔Section 30. KRS 514.110 is amended to read as follows:

24 (1) A person is guilty of receiving stolen property when he receives, retains, or disposes
25 of movable property of another knowing that it has been stolen, or having reason to
26 believe that it has been stolen, unless the property is received, retained, or disposed
27 of with intent to restore it to the owner.

1 (2) The possession by any person of any recently stolen movable property shall be
2 prima facie evidence that such person knew such property was stolen.

3 (3) Receiving stolen property is a Class A misdemeanor unless:

4 (a) *The value of the property is one hundred dollars (\$100) or less, in which*
5 *case it is a Class B misdemeanor;*

6 (b) The value of the property is *two thousand*~~[five hundred]~~ dollars
7 *(\$2,000)*~~[\$500]~~ or more but less than ten thousand dollars (\$10,000), in
8 which case it is a Class D felony;

9 ~~(c)~~~~(b)~~ The value of the property is ten thousand dollars (\$10,000) or more, in
10 which case it is a Class C felony;

11 ~~(d)~~~~(c)~~ The property is a firearm, regardless of the value of the firearm, in which
12 case it is a Class D felony; or

13 ~~(e)~~~~(d)~~ The property is anhydrous ammonia, regardless of the value of the
14 ammonia, in which case it is a Class D felony unless it is proven that the
15 person violated this section with the intent to manufacture methamphetamine
16 in violation of KRS 218A.1432, in which case it is a Class B felony for the
17 first offense and a Class A felony for each subsequent offense.

18 ➔Section 31. KRS 514.120 is amended to read as follows:

19 (1) A person is guilty of obscuring the identity of a machine or other property when he
20 or she:

21 (a) Removes, defaces, covers, alters, destroys, or otherwise obscures the
22 manufacturer's serial number or any other distinguishing identification number
23 or mark, including property marked with a Social Security number or motor
24 vehicle operator's license number for identification purposes, upon any
25 automobile or other propelled vehicle, machine, or electrical or mechanical
26 device, or other property, including any part thereof, with intent to render it or
27 other property unidentifiable; or

- 1 (b) Possesses any automobile or other propelled vehicle, machine, or electrical or
2 mechanical device, or other property, including any part thereof, knowing that
3 the serial number or other identification number or mark, including property
4 marked with a Social Security number for identification purposes, has been
5 removed, defaced, covered, altered, destroyed, or otherwise obscured.
- 6 (2) Possession of any automobile or other propelled vehicle, machine, or electrical or
7 mechanical device, or other property, including any part thereof, on which the serial
8 number or any other distinguishing identification number or mark, including
9 property marked with a Social Security number or motor vehicle operator's license
10 number for identification purposes, has been removed, defaced, covered, altered,
11 destroyed, or otherwise obscured is prima facie evidence of knowledge of that fact.
- 12 (3) A person in possession of any property which is otherwise in violation of this
13 section may apply in writing to the Department of Kentucky State Police, through
14 any law enforcement agency in the county of his or her residence, for assignment of
15 a number for the property providing he or she can show that he or she is the lawful
16 owner of the property pursuant to the provisions of this section and KRS 16.200 and
17 500.090. If a number is issued in conformity with the provisions of this section and
18 KRS 16.200 and 500.090, then the person to whom it was issued and any person to
19 whom the property is lawfully disposed of shall not be in violation of these sections.
20 A person lawfully holding a certification issued pursuant to KRS 500.090 shall also
21 be deemed in compliance with this section. This section shall apply only when the
22 application has been filed by the defendant prior to arrest or authorization of a
23 warrant of arrest for the defendant by a court.
- 24 (4) Obscuring the identity of a machine or other property is a Class A misdemeanor
25 unless the value of the property is:
- 26 (a) *One hundred dollars (\$100) or less, in which case it is a Class B*
27 *misdemeanor;*

1 (b) Two thousand~~Five hundred~~ dollars (\$2,000)~~(\$500)~~ or more but less than
2 ten thousand dollars (\$10,000), in which case it is a Class D felony; or

3 (c)~~(b)~~ Ten thousand dollars (\$10,000) or more, in which case it is a Class C
4 felony.

5 ➔Section 32. KRS 516.120 is amended to read as follows:

6 (1) A person is guilty of unlawfully using slugs in the first degree when:

7 (a) He makes, possesses or disposes of slugs with intent to enable a person to
8 insert, deposit or use them in a coin machine; and

9 (b) The value of such slugs equals or exceeds two thousand dollars
10 (\$2,000)~~(\$100)~~.

11 (2) Unlawfully using slugs in the first degree is a Class D felony.

12 ➔Section 33. KRS 517.060 is amended to read as follows:

13 (1) A person is guilty of defrauding secured creditors when he destroys, damages,
14 removes, conceals, encumbers, transfers, or otherwise deals with property subject to
15 a security interest with intent either to lower the value of the secured interest or
16 unlawfully to hinder enforcement of that interest.

17 (2) Defrauding secured creditors is a Class A misdemeanor unless the value of the
18 property subject to the security interest is:

19 (a) One hundred dollars (\$100) or less, in which case it is a Class B
20 misdemeanor;

21 (b) Two thousand~~Five hundred~~ dollars (\$2,000)~~(\$500)~~ or more up to ten
22 thousand dollars (\$10,000), in which case it is a Class D felony; or

23 (c)~~(b)~~ Ten thousand dollars (\$10,000) or more, in which case it is a Class C
24 felony.

25 ➔Section 34. KRS 218A.1415 is amended to read as follows:

26 (1) A person is guilty of possession of a controlled substance in the first degree when
27 he or she knowingly and unlawfully possesses:

- 1 (a) A controlled substance that is classified in Schedules I or II and is a narcotic
2 drug;
- 3 (b) A controlled substance analogue;
- 4 (c) Methamphetamine;
- 5 (d) Lysergic acid diethylamide;
- 6 (e) Phencyclidine;
- 7 (f) Gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of
8 isomers, and analogues; or
- 9 (g) Flunitrazepam, including its salts, isomers, and salts of isomers.
- 10 (2) Possession of a controlled substance in the first degree is ~~is a Class D felony subject~~
11 ~~to the following provisions~~:
- 12 (a) **For a first offense, a Class A misdemeanor subject to the following**
13 **provisions** ~~[The maximum term of incarceration shall be no greater than three~~
14 ~~(3) years, notwithstanding KRS Chapter 532;~~
- 15 ~~(b) For a person's first or second offense under this section, he or she may be~~
16 ~~subject to a period of~~:
- 17 1. **A person may be subject to a period of** deferred prosecution pursuant to
18 KRS 218A.14151; **and**
- 19 2. **Deferred prosecution shall be the preferred alternative for a person**
20 **charged under this paragraph. If a person does not enter a deferred**
21 **prosecution program, he or she upon conviction shall be placed on**
22 **probation unless the person was convicted within five (5) years prior**
23 **of**:
- 24 a. **An offense that would qualify the person as a violent offender as**
25 **defined in KRS 439.3401;**
- 26 b. **An offense that would qualify the person as a sex offender as**
27 **defined in KRS 17.550; or**

1 c. An offense involving domestic violence and abuse as defined in
 2 KRS 403.720 or dating violence and abuse as defined in KRS
 3 456.010;

4 in which case the maximum term of imprisonment shall be no greater
 5 than one (1) year;~~for~~

6 ~~2. Presumptive probation;~~

7 ~~(e) Deferred prosecution under paragraph (b) of this subsection shall~~
 8 ~~be the preferred alternative for a first offense; and~~

9 ~~(d) If a person does not enter a deferred prosecution program for his or~~
 10 ~~her first or second offense, he or she shall be subject to a period of]~~

11 (b) For a second offense, a Class A misdemeanor subject to the following
 12 provisions:

13 1. A person may be subject to a period of deferred prosecution pursuant
 14 to KRS 218A.14151; and

15 2. Deferred prosecution shall be the preferred alternative for a person
 16 charged under this paragraph. If a person does not enter a deferred
 17 prosecution program, he or she upon conviction shall be placed on
 18 presumptive probation unless the court determines the person is not
 19 eligible for presumptive probation in which case the maximum term of
 20 imprisonment shall be no greater than one (1) year; and

21 (c) For a third or subsequent offense, a Class D felony subject to the following
 22 provisions:

23 1. Presumptive probation shall be the preferred sentence for a person
 24 convicted under this paragraph, unless a court determines the
 25 defendant is not eligible for presumptive probation as defined in KRS
 26 218A.010; and

27 2. The maximum term of incarceration shall be no greater than three (3)

1 years, notwithstanding KRS Chapter 532.

2 (3) If a person is convicted of possession of a controlled substance in the first degree
 3 and placed on presumptive probation pursuant to subsection (2)(b) of this section,
 4 a court may order the person to receive a substance abuse assessment to be
 5 conducted by the community mental health center, or other treatment provider
 6 approved by the Office of Drug Control Policy. If the results of the assessment
 7 indicate a treatment need, the court may order the person, as a condition of
 8 probation, to complete a clinically appropriate treatment program as
 9 recommended by the community mental health center or other approved provider.

10 ➔Section 35. KRS 218A.1416 is amended to read as follows:

11 (1) A person is guilty of possession of a controlled substance in the second degree
 12 when he or she knowingly and unlawfully possesses: a controlled substance
 13 classified in Schedules I or II which is not a narcotic drug; or specified in KRS
 14 218A.1415; or a controlled substance classified in Schedule III; but not synthetic
 15 drugs, salvia, or marijuana.

16 (2) Possession of a controlled substance in the second degree is a Class B[A]
 17 misdemeanor.

18 ➔Section 36. KRS 218A.14151 is amended to read as follows:

19 (1) A defendant charged with his or her first or second offense under KRS 218A.1415
 20 may enter a deferred prosecution program subject to the following provisions:

21 (a) The defendant requests deferred prosecution in writing on an application
 22 created under KRS 27A.099, and the prosecutor agrees;

23 (b) The defendant shall not be required to plead guilty or enter an Alford plea as a
 24 condition of applying for participation in the deferred prosecution program;

25 (c) The defendant agrees to the terms and conditions set forth by the
 26 prosecutor~~Commonwealth's attorney~~ and approved by the court, which may
 27 include any provision authorized for pretrial diversion pursuant to KRS

1 533.250(1)(h) and (2); and

2 (d) The maximum length of participation in the program shall be two (2) years.

3 (2) If a prosecutor denies a defendant's request to enter a deferred prosecution program,
4 the prosecutor shall state on the record the substantial and compelling reasons why
5 *a criminal conviction is necessary*~~[the defendant cannot be safely and effectively~~
6 ~~supervised in the community, is not amenable to community based treatment, or~~
7 ~~poses a significant risk to public safety].~~

8 (3) If the defendant successfully completes the deferred prosecution program, the
9 charges against the defendant shall be dismissed, and all records relating to the case,
10 including but not limited to arrest records and records relating to the charges, shall
11 be sealed, except as provided in KRS 27A.099. The offense shall be deemed never
12 to have occurred, except for the purposes of determining the defendant's eligibility
13 for deferred prosecution under this section or voiding of the conviction under KRS
14 218A.275, and the defendant shall not be required to disclose the arrest or other
15 information relating to the charges or participation in the program unless required to
16 do so by state or federal law.

17 (4) If the defendant is charged with violating the conditions of the program, the court,
18 upon motion of the prosecutor~~[Commonwealth's attorney]~~, shall hold a hearing to
19 determine whether the defendant violated the conditions of the program.

20 (5) If the court finds that the defendant violated the conditions of the program, the court
21 may, with the approval of the prosecutor:

22 (a) Continue the defendant's participation in the program;

23 (b) Change the terms and conditions of the defendant's participation in the
24 program; or

25 (c) Order the defendant removed from the program and proceed with ordinary
26 prosecution for the offense charged.

27 ➔Section 37. KRS 511.040 is amended to read as follows:

1 (1) A person is guilty of burglary in the third degree when, with the intent to commit a
2 crime, he knowingly enters or remains unlawfully in a building. As used in this
3 subsection, "building" includes a recreational vehicle as defined in KRS 186.650
4 but no other vehicles.

5 (2) Burglary in the third degree is a Class D felony.

6 ➔Section 38. KRS 439.250 is amended to read as follows:

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

8 (1) "Secretary" means the secretary of the Justice and Public Safety Cabinet;

9 (2) "Commissioner" means the commissioner of the Department of Corrections;

10 (3) "Department" means the Department of Corrections;

11 (4) "Deputy commissioner" means the deputy commissioner of the Office of Adult
12 Institutions or the deputy commissioner of the Office of Community Services and
13 Facilities of the Department of Corrections;

14 (5) "Board" means the Parole Board created by KRS 439.320;

15 (6) "Community supervision" means:

16 (a) The placement of a defendant under supervision with conditions imposed by a
17 court for a specified period during which:

18 1. Criminal proceedings are deferred without an adjudication of guilt; or

19 2. A sentence of imprisonment or confinement, imprisonment and fine, or
20 confinement and fine, is probated and the imposition of sentence is
21 suspended in whole or in part; or

22 (b) The placement of an individual under supervision after release from prison or
23 jail, with conditions imposed by the board for a specified period;

24 (7) "Probation compliance credit" means a credit on a supervised individual's
25 sentence who is on probation, probation with an alternative sentence, or
26 conditional discharge, for an educational credit, a program completion credit, an
27 exceptionally meritorious or exceptional service credit, a work-for-time credit, or

1 *an earned discharge credit calculated pursuant to Section 57 of this Act;*

2 **(8)** "Parole compliance credit" means a credit on a *supervised*~~[paroled]~~ individual's
3 sentence *who is on parole* for:

4 **(a)** *An educational credit, a program completion credit, an exceptionally*
5 *meritorious or exceptional service credit, or a* work-for-time credit~~;~~
6 educational accomplishment, or meritorious service and shall be~~]~~ calculated
7 pursuant to the applicable provisions in KRS 197.045 and 197.047; *and*

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

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

16 (10) "Probation and parole district supervisor" means the highest ranking field probation
17 or parole administrator in each district;~~[and]~~

18 (11) "Supervised individual" means an individual placed on probation, *probation with*
19 *an alternative sentence, or conditional discharge* by a court or serving a period of
20 parole or *postincarceration*~~[post-release]~~ supervision from prison or jail;

21 *(12) "Technical violation" means any violation of the conditions of community*
22 *supervision other than a new misdemeanor or felony conviction or absconding;*
23 *and*

24 *(13) "Absconding" means willfully avoiding the detection of a probation and parole*
25 *officer for a period of at least thirty (30) days and after the probation and parole*
26 *officer has made at least four (4) documented attempts to locate the supervised*
27 *individual.*

1 ➔Section 39. KRS 446.010 is amended to read as follows:

2 As used in the statute laws of this state, unless the context requires otherwise:

3 (1) "Action" includes all proceedings in any court of this state;

4 (2) "Animal" includes every warm-blooded living creature except a human being;

5 (3) "Attorney" means attorney-at-law;

6 (4) "Bequeath" and "devise" mean the same thing;

7 (5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal
8 estate, or both;

9 (6) "Business trust" includes, except when utilized in KRS Chapter 386, a "statutory
10 trust" as organized under KRS Chapter 386A;

11 (7) "Case plan" means an individualized accountability and behavior change strategy
12 for supervised individuals that:

13 (a) Targets and prioritizes the specific criminal risk factors of the individual
14 based upon his or her assessment results;

15 (b) Matches the type and intensity of supervision and treatment conditions to the
16 individual's level of risk, criminal risk factors, and individual characteristics,
17 such as gender, culture, motivational stage, developmental stage, and learning
18 style;

19 (c) Establishes a timetable for achieving specific behavioral goals, including a
20 schedule for payment of victim restitution, child support, and other financial
21 obligations; and

22 (d) Specifies positive and negative actions that will be taken in response to the
23 supervised individual's behaviors;

24 (8) "Certified mail" means any method of governmental, commercial, or electronic
25 delivery that allows a document or package to have proof of:

26 (a) Sending the document or package;

27 (b) The date the document or package was delivered or delivery was attempted;

1 and

2 (c) The signature of the receipt of the document or package;

3 (9) "Company" may extend and be applied to any corporation, company, person,
4 partnership, joint stock company, or association;

5 (10) "Corporation" may extend and be applied to any corporation, company, partnership,
6 joint stock company, or association;

7 (11) "Criminal risk factors" are characteristics and behaviors that, when addressed or
8 changed, affect a person's risk for committing crimes. The characteristics may
9 include but are not limited to the following risk and criminogenic need factors:
10 antisocial behavior; antisocial personality; criminal thinking; criminal associates;
11 dysfunctional family; low levels of employment or education; poor use of leisure
12 and recreation; and substance abuse;

13 (12) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable
14 physical pain, suffering, or death is caused or permitted;

15 (13) "Directors," when applied to corporations, includes managers or trustees;

16 (14) "Domestic," when applied to a corporation, partnership, business trust, or limited
17 liability company, means all those incorporated or formed by authority of this state;

18 (15) "Domestic animal" means any animal converted to domestic habitat;

19 (16) "Evidence-based practices" means policies, procedures, programs, and practices
20 proven by scientific research to reliably produce reductions in recidivism when
21 implemented competently;

22 (17) "Federal" refers to the United States;

23 (18) "Foreign," when applied to a corporation, partnership, limited partnership, business
24 trust, statutory trust, or limited liability company, includes all those incorporated or
25 formed by authority of any other state;

26 (19) "Generally accepted accounting principles" are those uniform minimum standards
27 of and guidelines to financial accounting and reporting as adopted by the National

- 1 Council on Governmental Accounting, under the auspices of the Municipal Finance
2 Officers Association and by the Financial Accounting Standards Board, under the
3 auspices of the American Institute of Certified Public Accountants;
- 4 (20) "Graduated sanction" means any of a wide range of accountability measures and
5 programs for supervised individuals, including but not limited to electronic
6 monitoring; drug and alcohol testing or monitoring; day or evening reporting
7 centers; restitution centers; reentry centers; disallowance of future earned
8 compliance credits; rehabilitative interventions such as substance abuse or mental
9 health treatment; reporting requirements to probation and parole officers;
10 community service or work crews; secure or unsecure residential treatment facilities
11 or halfway houses; and short-term or intermittent incarceration;
- 12 (21) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals,"
13 means any nonprofit corporation, organized under the laws of this state and having
14 as its primary purpose the prevention of cruelty to animals;
- 15 (22) "Issue," as applied to the descent of real estate, includes all the lawful lineal
16 descendants of the ancestors;
- 17 (23) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights
18 thereto and interest therein, other than a chattel interest;
- 19 (24) "Legatee" and "devisee" convey the same idea;
- 20 (25) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, or
21 any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;
- 22 (26) "May" is permissive;
- 23 (27) "Month" means calendar month;
- 24 (28) "Oath" includes "affirmation" in all cases in which an affirmation may be
25 substituted for an oath;
- 26 (29) "Owner" when applied to any animal, means any person having a property interest
27 in such animal;

- 1 (30) "Partnership" includes both general and limited partnerships;
- 2 (31) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and
3 urban-county government correctional officers, marshals, policemen, and other
4 persons with similar authority to make arrests;
- 5 (32) "Penitentiary" includes all of the state penal institutions except the houses of
6 reform;
- 7 (33) "Person" may extend and be applied to bodies-politic and corporate, societies,
8 communities, the public generally, individuals, partnerships, joint stock companies,
9 and limited liability companies;
- 10 (34) "Personal estate" includes chattels, real and other estate that passes to the personal
11 representative upon the owner dying intestate;
- 12 (35) "Pretrial risk assessment" means an objective, research-based, validated assessment
13 tool that measures a defendant's risk of failing to appear for required court
14 appearances~~[flight]~~ and risk of anticipated criminal conduct while on pretrial
15 release pending adjudication;
- 16 (36) "Registered mail" means any governmental, commercial, or electronic method of
17 delivery that allows a document or package to have:
- 18 (a) Its chain of custody recorded in a register to enable its location to be tracked;
- 19 (b) Insurance available to cover its loss; and
- 20 (c) The signature of the recipient of the document or package available to the
21 sender;
- 22 (37) "Regular election" means the election in even-numbered years at which members of
23 Congress are elected and the election in odd-numbered years at which state officers
24 are elected;
- 25 (38) "Risk and needs assessment" or "validated risk and needs assessment" means an
26 actuarial tool scientifically proven to determine a person's risk to reoffend and
27 criminal risk factors, that when properly addressed, can reduce that person's

- 1 likelihood of committing future criminal behavior;
- 2 (39) "Shall" is mandatory;
- 3 (40) "State" when applied to a part of the United States, includes territories, outlying
4 possessions, and the District of Columbia; "any other state" includes any state,
5 territory, outlying possession, the District of Columbia, and any foreign government
6 or country;
- 7 (41) "State funds" or "public funds" means sums actually received in cash or negotiable
8 instruments from all sources unless otherwise described by any state agency, state-
9 owned corporation, university, department, cabinet, fiduciary for the benefit of any
10 form of state organization, authority, board, bureau, interstate compact,
11 commission, committee, conference, council, office, or any other form of
12 organization whether or not the money has ever been paid into the Treasury and
13 whether or not the money is still in the Treasury if the money is controlled by any
14 form of state organization, except for those funds the management of which is to be
15 reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605,
16 and 42.615;
- 17 (42) "Supervised individual" means an individual placed on probation, probation with
18 an alternative sentence, or conditional discharge by a court or serving a period of
19 parole or postincarceration~~[post-release]~~ supervision from prison or jail;
- 20 (43) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted
21 for an oath;
- 22 (44) "Treatment" when used in a criminal justice context, means targeted interventions
23 that focus on criminal risk factors in order to reduce the likelihood of criminal
24 behavior. Treatment options may include but shall not be limited to medication-
25 assisted treatment; community-based programs that are consistent with evidence-
26 based practices; cognitive-behavioral programs; faith-based programs; inpatient and
27 outpatient substance abuse or mental health programs; and other available

- 1 prevention and intervention programs that have been scientifically proven to
2 produce reductions in recidivism when implemented competently. [~~"Treatment"~~
3 ~~does not include medical services~~];
- 4 (45) "United States" includes territories, outlying possessions, and the District of
5 Columbia;
- 6 (46) "Vacancy in office," or any equivalent phrase, means such as exists when there is an
7 unexpired part of a term of office without a lawful incumbent therein, or when the
8 person elected or appointed to an office fails to qualify according to law, or when
9 there has been no election to fill the office at the time appointed by law; it applies
10 whether the vacancy is occasioned by death, resignation, removal from the state,
11 county or district, or otherwise;
- 12 (47) "Violate" includes failure to comply with;
- 13 (48) "Will" includes codicils; "last will" means last will and testament;
- 14 (49) "Year" means calendar year;
- 15 (50) "City" includes town;
- 16 (51) Appropriation-related terms are defined as follows:
- 17 (a) "Appropriation" means an authorization by the General Assembly to expend,
18 from public funds, a sum of money not in excess of the sum specified, for the
19 purposes specified in the authorization and under the procedure prescribed in
20 KRS Chapter 48;
- 21 (b) "Appropriation provision" means a section of any enactment by the General
22 Assembly which is not provided for by KRS Chapter 48 and which authorizes
23 the expenditure of public funds other than by a general appropriation bill;
- 24 (c) "General appropriation bill" means an enactment by the General Assembly
25 that authorizes the expenditure of public funds in a branch budget bill as
26 provided for in KRS Chapter 48;
- 27 (52) "Mediation" means a nonadversarial process in which a neutral third party

1 encourages and helps disputing parties reach a mutually acceptable agreement.
 2 Recommendations by mediators are not binding on the parties unless the parties
 3 enter into a settlement agreement incorporating the recommendations;

4 (53) "Biennium" means the two (2) year period commencing on July 1 in each even-
 5 numbered year and ending on June 30 in the ensuing even-numbered year;

6 (54) "Branch budget bill" or "branch budget" means an enactment by the General
 7 Assembly which provides appropriations and establishes fiscal policies and
 8 conditions for the biennial financial plan for the judicial branch, the legislative
 9 branch, and the executive branch, which shall include a separate budget bill for the
 10 Transportation Cabinet;

11 (55) "AVIS" means the automated vehicle information system established and
 12 maintained by the Transportation Cabinet to collect titling and registration
 13 information on vehicles and boats and information on holders of motor vehicle
 14 operator's licenses and personal identification cards; and

15 (56) "Cooperative," except in KRS Chapter 272, includes a limited cooperative
 16 association.

17 ➔SECTION 40. A NEW SECTION OF KRS 439.250 TO 439.560 IS CREATED
 18 TO READ AS FOLLOWS:

19 **(1) As used in this section:**

20 **(a) "Eligible inmate" means an inmate who:**

21 **1. Is eligible for parole;**

22 **2. Is incarcerated for a Class C or D felony; and**

23 **3. Does not qualify as a violent offender as defined in KRS 439.3401 or a**
 24 **sex offender as defined in KRS 17.550; and**

25 **(b) "Serious disciplinary violation" means a Category III or IV violation as**
 26 **defined by administrative regulations promulgated by the department.**

27 **(2) The board shall administratively release an eligible inmate on parole on the**

1 *inmate's parole eligibility date.*

2 *(3) No parole hearing shall be required for the board to administratively release an*
 3 *eligible inmate on parole pursuant to subsection (2) of this section, if:*

4 *(a) A victim of the offense or a Commonwealth's attorney who prosecuted the*
 5 *offense has not requested that the board conduct a hearing;*

6 *(b) The inmate has not had a serious disciplinary violation within a year of his*
 7 *or her parole eligibility date; and*

8 *(c) The inmate has agreed to the conditions of parole set by the board.*

9 *(4) Prior to an eligible inmate's parole eligibility date, the board shall provide*
 10 *notification in the manner detailed in subsection (5)(b) and (d) of Section 41 of*
 11 *this Act to any identified victim and to the Commonwealth's attorney who*
 12 *prosecuted the offense. The notice shall include the name and address of a board*
 13 *employee to write if the recipient of the notice desires to submit a written request*
 14 *for a hearing. If, at any time prior to the eligible inmate's parole eligibility date,*
 15 *the board receives a written or in-person request for a hearing from a recipient of*
 16 *the notice, the board shall hold a parole hearing.*

17 ➔Section 41. KRS 439.340 is amended to read as follows:

18 (1) The board may release on parole persons confined in any adult state penal or
 19 correctional institution of Kentucky or sentenced felons incarcerated in county jails
 20 eligible for parole. All paroles shall issue upon order of the board duly adopted. As
 21 soon as practicable after his or her admission to an adult state penal or correctional
 22 institution or county jail if he or she is a sentenced felon, and at such intervals
 23 thereafter as it may determine, the Department of Corrections shall obtain all
 24 pertinent information regarding each prisoner, except those not eligible for parole.
 25 The information shall include the results of his or her most recent risk and needs
 26 assessment, his or her criminal record, his or her conduct, employment, and the
 27 reports of physical and mental examinations that have been made. The Department

1 of Corrections shall furnish the circumstances of his or her offense, the results of his
2 or her most recent risk and needs assessment, and his or her previous social history
3 to the board. The Department of Corrections shall prepare a report on any
4 information it obtains. It shall be the duty of the Department of Corrections to
5 supplement this report with any material the board may request and submit the
6 report to the board.

7 (2) Before granting the parole of any prisoner, the board shall consider the pertinent
8 information regarding the prisoner, including the results of his or her most recent
9 risk and needs assessment, and, except as provided in Section 40 of this Act, shall
10 have him or her appear before it for interview and hearing. The board in its
11 discretion may hold interviews and hearings for prisoners convicted of Class C
12 felonies not included within the definition of "violent offender" in KRS 439.3401
13 and Class D felonies. The board in its discretion may request the parole board of
14 another state confining prisoners pursuant to KRS 196.610 to interview eligible
15 prisoners and make a parole recommendation to the board. A parole shall be
16 ordered only for the best interest of society and not as an award of clemency, and it
17 shall not be considered a reduction of sentence or pardon. A prisoner shall be placed
18 on parole only when arrangements have been made for his or her proper
19 employment or for his or her maintenance and care, and when the board believes he
20 or she is able and willing to fulfill the obligations of a law abiding citizen.
21 Notwithstanding any statute to the contrary, including KRS 440.330, when a
22 prisoner is otherwise eligible for parole and the board has recommended parole for
23 that prisoner for the reasons set forth in this subsection, the board may grant parole
24 to any prisoner wanted as a fugitive by any other jurisdiction, and the prisoner shall
25 be released to the detainer from that jurisdiction. Such parole shall not constitute a
26 relinquishment of jurisdiction over the prisoner, and the board in all cases expressly
27 reserves the right to return the prisoner to confinement in a correctional institution

1 of the Commonwealth if the prisoner violates the terms of his or her parole.

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

7 (b) Except as provided in this section, the board shall adopt administrative
8 regulations with respect to the eligibility of prisoners for parole, eligibility of
9 prisoners for parole pursuant to Section 61 of this Act, administrative
10 parole pursuant to Section 40 of this Act, the conduct of parole and parole
11 revocation hearings and all other matters that come before it, or conditions to
12 be imposed upon parolees. Regulations governing the eligibility of prisoners
13 for parole shall be in accordance with professionally accepted ideas of
14 correction and reform and may utilize in part objective, performance-based
15 criteria and risk and needs assessment information; however, nothing herein
16 contained shall preclude the board from utilizing its present regulations in
17 conjunction with other factors involved that would relate to the inmate's needs
18 and the safety of the public.

19 (4) The board shall insure that all sentenced felons who have longer than ninety (90)
20 days to serve in state penal institutions, halfway houses, reentry centers, and county
21 jails are considered for parole not less than sixty (60) days prior to their parole
22 eligibility date, and the Department of Corrections shall provide the necessary
23 assistance and information to the board in order for it to conduct timely parole
24 reviews.

25 (5) (a) In addition to or in conjunction with each hearing conducted under subsection
26 (2) of this section for any prisoner convicted of a Class A, B, or C felony and
27 prior to the granting of a parole to any such prisoner, the parole board shall

1 conduct a hearing of which the following persons shall receive not less than
2 forty-five (45) nor more than ninety (90) days' notice: the Commonwealth's
3 attorney who shall notify the sheriff of every county and the chief of police of
4 every city and county in which the prisoner committed any Class A, B, or C
5 felony for which he or she is imprisoned, and all identified victims of the
6 crimes or the next of kin of any victim who is deceased.

7 **(b)** Notice to the Commonwealth's attorney shall be by mail, fax, or electronic
8 means at the discretion of the board, and shall be in a manner that ensures
9 receipt at the Commonwealth attorney's business office.

10 **(c)** Notices received by chiefs of police and sheriffs shall be posted in a
11 conspicuous location where police employed by the department may see it.
12 Notices shall be posted in a manner and at a time that will allow officers to
13 make comment thereon to the Parole Board.

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

19 **2.** For prisoners incarcerated on or after July 15, 1986, notice to the victims
20 or their next of kin shall be by mail from the Parole Board to their last
21 known address as provided by the Commonwealth's attorney to the
22 Parole Board at the time of incarceration of the prisoner.

23 **3.** Notice to the victim or the next of kin of subsequent considerations for
24 parole after the initial consideration shall not be sent if the victim or the
25 next of kin gives notice to the board that he or she no longer wants to
26 receive such notices.

27 **(e)** The notice shall include the time, date, and place of the hearing provided for

1 in this subsection, and the name and address of a person to write if the
2 recipient of the notice desires to attend the hearing or to submit written
3 comments.

4 (6) Persons receiving notice as provided for in subsection (5) of this section may
5 submit comments, in person or in writing, to the board upon all issues relating to the
6 parole of the prisoner. The board shall read and consider all comments prior to
7 making its parole decision, if they are received by the board not less than seven (7)
8 days before the date for the hearing. The board shall retain all comments in the
9 prisoner's permanent Parole Board file, and shall consider them in conjunction with
10 any subsequent parole decisions affecting the prisoner. In addition to officers listed
11 in subsection (5) of this section, the crime victims or the next of kin of any victim
12 who is deceased or who is disabled and cannot attend the hearing or the parent or
13 legal guardian of any victim who is a minor may attend the hearing provided for in
14 subsection (5) of this section and present oral and written comments upon all issues
15 relating to the parole of the prisoner, if they have advised the board, in writing
16 received by the board not less than seven (7) days prior to the date set for the
17 hearing, of their intention to attend the hearing. The board shall receive and
18 consider all comments, shall make a record of them which it shall retain in the
19 prisoner's permanent Parole Board file, and shall consider them in conjunction with
20 any subsequent parole decision affecting the prisoner. Persons appearing before the
21 Parole Board pursuant to this subsection may elect to make their presentations
22 outside of the presence of the prisoner.

23 (7) Victims of Class D felonies may submit comments in person or in writing to the
24 board upon all issues relating to the parole of a prisoner.

25 (8) Any hearing provided for in subsections (5), (6), and (7) of this section shall be
26 open to the public unless the persons having a right to appear before the board as
27 specified in those subsections request closure of hearing for reasons of personal

- 1 safety, in which event the hearing shall be closed. The time, date, and location of
2 closed hearings shall not be disclosed to the public.
- 3 (9) Except as specifically set forth in this section, nothing in this section shall be
4 deemed to expand or abridge any existing rights of persons to contact and
5 communicate with the Parole Board or any of its members, agents, or employees.
- 6 (10) The unintentional failure by the Parole Board, sheriff, chief of police, or any of its
7 members, agents, or employees or by a Commonwealth's attorney or any of his or
8 her agents or employees to comply with any of the provisions of subsections (5),
9 (6), and (8) of this section shall not affect the validity of any parole decision or give
10 rise to any right or cause of action by the crime victim, the prisoner, or any other
11 person.
- 12 (11) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be
13 granted parole unless he or she has successfully completed the Sexual Offender
14 Treatment Program.
- 15 (12) Any prisoner who is granted parole after completion of the Sexual Offender
16 Treatment Program shall be required, as a condition of his or her parole, to
17 participate in regular treatment in a mental health program approved or operated by
18 the Department of Corrections.
- 19 (13) When the board grants parole contingent upon completion of a program, the
20 commissioner, or his or her designee, shall determine the most appropriate
21 placement in a program operated by the department or a residential or nonresidential
22 program within the community approved by the department. If the department
23 releases a parolee to a nonresidential program, the department shall release the
24 parolee only if he or she will have appropriate community housing pursuant to KRS
25 439.3408.
- 26 (14) If the parole board does not grant parole to a prisoner, the maximum deferment for a
27 prisoner convicted of a non-violent, non-sexual Class C or Class D felony shall be

1 twenty-four (24) months. For all other prisoners who are eligible for parole:

2 (a) No parole deferment greater than five (5) years shall be ordered unless
3 approved by a majority vote of the full board; and

4 (b) No deferment shall exceed ten (10) years, except for life sentences.

5 (15) When an order for parole is issued, it shall recite the conditions thereof.

6 ➔Section 42. KRS 439.3406 is amended to read as follows:

7 (1) The board shall order mandatory reentry supervision six (6) months prior to the
8 projected completion date of an inmate's sentence for an inmate who has not been
9 granted discretionary parole or administrative parole pursuant to Section 40 of
10 this Act.

11 (2) The provisions of subsection (1) of this section shall not apply to an inmate who:

12 (a) Is not eligible for parole by statute;

13 (b) Has been convicted of a capital offense or a Class A felony;

14 (c) Has a maximum or close security classification as defined by administrative
15 regulations promulgated by the department;

16 (d) Has been sentenced to two (2) years or less of incarceration;

17 (e) Is subject to the provisions of KRS 532.043;

18 (f) Has six (6) months or less to be served after his or her sentencing by a court or
19 recommitment to prison for a violation of probation, shock probation, parole,
20 or conditional discharge;

21 (g) If recommitted to prison for a violation of probation, shock probation, parole,
22 or conditional discharge, has not served at least six (6) months since being
23 recommitted; or

24 (h) Has twice been released on mandatory reentry supervision.

25 (3) An inmate granted mandatory reentry supervision pursuant to this section may be
26 returned by the board to prison for violation of the conditions of supervision and
27 shall not again be eligible for mandatory reentry supervision during the same period

1 of incarceration.

2 (4) An inmate released to mandatory reentry supervision shall be considered to be
3 released on parole.

4 (5) Mandatory reentry supervision is not a commutation of sentence or any other form
5 of clemency.

6 (6) No hearing shall be required for the board to order an inmate to mandatory reentry
7 supervision pursuant to subsection (1) of this section. Terms of supervision for
8 inmates released on mandatory reentry supervision shall be established as follows:

9 (a) The board shall adopt administrative regulations establishing general
10 conditions applicable to each inmate ordered to mandatory reentry supervision
11 pursuant to subsection (1) of this section. If an inmate is ordered to mandatory
12 reentry supervision, the board's order shall set forth the general conditions and
13 shall require the inmate to comply with the general conditions and any
14 requirements imposed by the department in accordance with this section;

15 (b) Upon intake of an inmate ordered to mandatory reentry supervision by the
16 board, the department shall use the results of the risk and needs assessment
17 administered pursuant to KRS 439.3104(1) to establish appropriate terms and
18 conditions of supervision, taking into consideration the level of risk to public
19 safety, criminal risk factors, and the need for treatment and other
20 interventions. The terms and conditions imposed by the department under this
21 paragraph shall not conflict with the general conditions adopted by the board
22 pursuant to paragraph (a) of this subsection; and

23 (c) The powers and duties assigned to the commissioner in relation to probation
24 or parole under KRS 439.470 shall be assigned to the commissioner in
25 relation to mandatory reentry supervision.

26 (7) Subject to subsection (3) of this section, the period of mandatory reentry
27 supervision shall conclude upon completion of the individual's minimum expiration

1 of sentence.

2 (8) If the board issues a warrant for the arrest of an inmate for absconding from
3 supervision during the mandatory reentry supervision period, and the inmate is
4 subsequently returned to prison as a violator of conditions of supervision for
5 absconding, the inmate shall not receive credit toward the remainder of his or her
6 sentence for the time spent absconding.

7 (9) The department shall report the results of the mandatory reentry supervision
8 program to the Interim Joint Committee on Judiciary by February 1, 2015.

9 ➔Section 43. KRS 439.553 is amended to read as follows:

10 For supervised individuals on probation, *probation with an alternative sentence, or*
11 *conditional discharge*, the court having jurisdiction of the case shall determine the
12 conditions of community supervision and:

13 *(1) For technical violations, shall*~~[may]~~ impose as a condition of community
14 supervision that the department supervising the individual shall, in accordance with
15 KRS *439.551*~~[439.3108]~~, impose graduated sanctions adopted by the department for
16 *a technical violation*~~[violations of the conditions of community supervision]~~;

17 *(2) For absconding, shall impose as a condition of community supervision that the*
18 *department supervising the individual shall, in accordance with Section 48 of this*
19 *Act, impose graduated sanctions adopted by the department for an absconding*
20 *violation; and*

21 *(3) For violations resulting from new misdemeanor or felony convictions, the court*
22 *may impose as a condition of community supervision that the department*
23 *supervising the individual shall, in accordance with Section 48 of this Act,*
24 *impose graduated sanctions adopted by the department.*

25 ➔Section 44. Section 43 of this Act takes effect January 1, 2019.

26 ➔Section 45. KRS 532.260 is amended to read as follows:

27 (1) Any Class C or Class D felon who is serving a sentence in a state-operated prison,

1 contract facility, or county jail shall, at the discretion of the commissioner, be
2 eligible to serve the remainder of his or her sentence outside the walls of the
3 detention facility under terms of home incarceration or conditional release to an
4 appropriate housing alternative specified by KRS 532.262 using an approved
5 monitoring device as defined in KRS 532.200, if the felon:

6 (a) 1. Has not been convicted of, pled guilty to, or entered an Alford plea to a
7 violent felony as defined by the Department of Corrections classification
8 system; or

9 2. Has not been convicted of, pled guilty to, or entered an Alford plea to a
10 sex crime as defined in KRS 17.500;

11 (b) Has twelve (12)~~nine (9)~~ months or less to serve on his or her sentence;

12 (c) Has voluntarily participated in a discharge planning process with the
13 department to address his or her:

- 14 1. Education;
- 15 2. Employment, technical, and vocational skills;
- 16 3. Housing, medical, and mental health needs; and
- 17 4. Criminal risk factors; and

18 (d) Has needs that may be adequately met in the community where he or she will
19 reside upon release.

20 (2) *The Department of Corrections shall conduct a validated risk and needs*
21 *assessment on an individual upon placement to home incarceration, unless an*
22 *initial assessment has been previously conducted within a reasonable time period*
23 *as specified in the department's administrative regulations. The department shall*
24 *use the results of the risk and needs assessment to develop a case plan that*
25 *addresses the person's criminal risk factors.*

26 (3) A person who is placed under terms of home incarceration pursuant to subsection
27 (1) of this section shall remain in the custody of the Department of Corrections. *The*

1 department may, in accordance with Section 48 of this Act, impose graduated
2 sanctions for any technical violation committed while on home incarceration. As
3 used in this subsection, "technical violation" has the same meaning as in Section
4 38 of this Act. Any unauthorized departure from the terms of home incarceration
5 may be prosecuted as an escape pursuant to KRS Chapter 520 ~~and shall result in~~
6 ~~the person being returned to prison.~~

7 ~~(4)~~~~(3)~~ The Department of Corrections shall promulgate administrative regulations to
8 implement the provisions of this section.

9 ➔Section 46. Section 45 of this Act takes effect January 1, 2019.

10 ➔Section 47. KRS 439.3107 is amended to read as follows:

11 (1) The department shall, by January 1, 2019~~[2012]~~, adopt a system of graduated
12 sanctions for technical violations of conditions of community supervision and for
13 violations of absconding. Notwithstanding KRS Chapter 533, the system shall set
14 forth a menu of presumptive sanctions for the most common types of
15 technical~~[supervision]~~ violations, including but not limited to: failure to report;
16 failure to pay fines, fees, and victim restitution; failure to participate in a required
17 program or service; failure to complete community service; violation of a protective
18 or no contact order; and failure to refrain from the use of alcohol or controlled
19 substances. The system of sanctions shall take into account factors such as the
20 severity of the current violation, the supervised individual's previous criminal
21 record, the number and severity of any previous supervision violations, the
22 supervised individual's assessed risk level, and the extent to which graduated
23 sanctions were imposed for previous violations. The system also shall define
24 positive reinforcements that supervised individuals may receive for compliance with
25 conditions of supervision.

26 (2) The department shall establish by administrative regulation an administrative
27 process to review and approve or reject, prior to imposition, graduated sanctions

1 that deviate from those prescribed.

2 (3) The department shall establish by administrative regulation an administrative
3 process to review graduated sanctions contested by supervised individuals under
4 KRS 439.3108.

5 ➔Section 48. KRS 439.3108 is amended to read as follows:

6 (1) Notwithstanding any administrative regulation or law to the contrary, including
7 KRS 439.340(3)(b), the department or board may:

8 (a) Modify the conditions of community supervision for the limited purpose of
9 imposing graduated sanctions;

10 (b) *For a supervised individual who has been apprehended following a*
11 *violation of absconding, impose graduated sanctions as detailed in*
12 *subsection (5) of this section;*

13 (c) Place a supervised individual who is on probation, *probation with an*
14 *alternative sentence, or conditional discharge* who violates the conditions of
15 community supervision in a state or local correctional or detention facility or
16 residential center for a period of not more than ten (10) days consecutively,
17 and not more than sixty (60) days in any one (1) calendar year. The
18 department shall reimburse the local correctional or detention facility or
19 residential center for the costs of incarcerating a person confined under this
20 paragraph at the rate specified in KRS 532.100;

21 (d)~~(e)~~ Place a supervised individual serving a period of parole or
22 *postincarceration*~~[post-release]~~ supervision from prison or jail who violates
23 the conditions of community supervision in a state or local correctional or
24 detention facility or residential center for a period of not more than thirty (30)
25 days consecutively, and not more than sixty (60) days in any one (1) calendar
26 year. The department shall reimburse the local correctional or detention
27 facility or residential center for the costs of incarcerating a person confined

1 under this paragraph at the rate specified in KRS 532.100; and
2 ~~(e)~~~~(d)~~ Notwithstanding paragraphs ~~(c)~~~~(b)~~ and ~~(d)~~~~(e)~~ of this subsection,
3 place any supervised individual who violates the conditions of community
4 supervision in a state or local correctional or detention facility or residential
5 center for the period of time a supervised individual awaits admission to a
6 residential alcohol or substance use treatment program. The department shall
7 reimburse the local correctional or detention facility or residential center for
8 the costs of incarcerating a supervised individual serving a period of parole or
9 postincarceration~~post-release~~ supervision confined under this paragraph at
10 the rate specified in KRS 532.100.

11 (2) A probation and parole officer intending to modify the conditions of community
12 supervision by imposing a graduated sanction shall issue to the supervised
13 individual a notice of the intended sanction. The notice shall inform the supervised
14 individual of the technical violation or violations alleged, the date or dates of the
15 violation or violations, and the graduated sanction to be imposed.

16 (3) The imposition of a graduated sanction or sanctions by a probation and parole
17 officer shall comport with the system of graduated sanctions adopted by the
18 department under KRS 439.3107. Upon receipt of the notice, the supervised
19 individual shall immediately accept or object to the sanction or sanctions proposed
20 by the officer. The failure of the supervised individual to comply with a sanction
21 shall constitute a violation of community supervision.

22 (4) If the supervised individual objects to the imposition of the sanction or sanctions,
23 then:

24 (a) If the supervised individual is serving a period of parole or postincarceration
25 ~~post-release~~ supervision from prison or jail, then the administrative process
26 promulgated under KRS 439.3107(3) shall apply; or

27 (b) If the supervised individual is on probation, probation with an alternative

1 sentence, or conditional discharge, then the provisions of KRS 533.050 shall
2 apply.

3 (5) If the supervised individual has committed a violation of absconding and with the
4 approval of his or her probation and parole district supervisor, a probation and
5 parole officer:

6 (a) For the first absconding violation, shall use graduated sanctions in lieu of
7 revocation, unless the probation and parole officer determines that the
8 supervised individual has been arrested for new criminal activity or is being
9 supervised for an offense that would qualify the individual as a violent
10 offender as defined in KRS 439.3401 or a sex offender as defined in KRS
11 17.550; and

12 (b) For the second or any subsequent absconding violation, may use graduated
13 sanctions in lieu of revocation.

14 (6) If the graduated sanction involves confinement in a correctional or detention
15 facility, confinement shall be approved by the probation and parole district
16 supervisor, but the supervised individual may be taken into custody for up to four
17 (4) hours while such approval is obtained. If the supervised individual is employed,
18 the probation and parole officer shall, to the extent feasible, impose this sanction on
19 weekend days or other days and times when the supervised individual is not
20 working.

21 ~~(7)~~ A sanction that confines a supervised individual in a correctional or detention
22 facility for a period of more than ten (10) consecutive days, or extends the term of
23 community supervision, shall not be imposed as a graduated sanction, except
24 pursuant to an order of the court or the board.

25 ~~(8)~~ Upon successful completion of a graduated sanction or sanctions, a court or
26 the board may not revoke the term of community supervision or impose additional
27 sanctions for the same violation.

1 ~~(9)~~⁽⁸⁾ If a probation and parole officer modifies the conditions of community
2 supervision by imposing a graduated sanction, the officer shall:

- 3 (a) Deliver a copy of the modified conditions to the supervised individual;
4 (b) File a copy of the modified conditions with the sentencing court or releasing
5 authority; and
6 (c) Note the date of delivery of the copy in the supervised individual's file or case
7 management system.

8 ➔Section 49. Section 48 of this Act takes effect January 1, 2019.

9 ➔Section 50. KRS 439.341 is amended to read as follows:

10 (1) Preliminary revocation hearings of probation, probation with an alternative
11 sentence, conditional discharge, parole, and postincarceration supervision violators
12 shall be conducted by hearing officers. These hearing officers shall be attorneys,
13 appointed by the board and admitted to practice in Kentucky, who shall perform the
14 aforementioned duties and any others assigned by the board.

15 (2) If a supervised individual has been detained pursuant to Section 52 or 55 of this
16 Act for a technical violation, a preliminary revocation hearing shall be held
17 within fifteen (15) business days of the date of detainment. If the preliminary
18 revocation hearing does not occur within fifteen (15) business days of the date of
19 detainment, a show cause hearing may be held to extend the period of
20 detainment. However, the period of detainment for a technical violation shall
21 never exceed the maximum period of imprisonment for a technical violation
22 established in Section 52 or 55 of this Act. If no show cause hearing is held
23 before the expiration of the maximum period of imprisonment for a technical
24 violation, the supervised individual shall be released from detention and
25 continued on parole.

26 ➔Section 51. KRS 439.315 is amended to read as follows:

27 (1) Except as provided in subsection (2)(b) and (c) of this section, a person placed by

1 a releasing authority on probation, parole, or other form of release subject to
2 supervision by the Department of Corrections and all persons supervised pursuant
3 to KRS 439.560 shall pay a fee to offset the costs of supervising the probation,
4 parole, or other supervised release.

5 (2) **(a) Except as provided in paragraphs (b) and (c) of this subsection,** the fees
6 shall be as follows:

7 ~~1.(a)~~ For a felony, not less than ten dollars (\$10) per month while on
8 active supervision nor more than two thousand five hundred dollars
9 (\$2,500) per year.

10 ~~2.(b)~~ For a misdemeanor, not less than ten dollars (\$10) per month while
11 on active supervision nor more than five hundred dollars (\$500) per
12 year, except as provided in subsection (13) of this section.

13 **(b) Fees shall be waived if a person is placed on administrative supervision**
14 **pursuant to Section 60 of this Act.**

15 **(c) Fees shall be suspended for the first six (6) months of a person's term of**
16 **community supervision if a person is released from custody and placed on**
17 **parole, postincarceration supervision, or other form of release subject to**
18 **supervision by the Department of Corrections following a term of**
19 **incarceration, unless the releasing authority determines the person has the**
20 **ability to pay the fee.**

21 (3) The releasing authority shall order the fee paid in a lump sum or installments. If the
22 fee is to be paid in a lump sum, the person shall not be released from custody until
23 the fee is paid in full, **unless the releasing authority determines the person does**
24 **not have the ability to pay the fee.**

25 (4) Upon the failure of a person to pay an installment on a fee set forth in a release
26 agreement, the releasing authority shall hold a hearing to determine why the
27 installment has not been paid. Failure without good cause to pay an installment

1 pursuant to a release agreement shall be a technical violation and shall be grounds
2 for the revocation of probation, probation with an alternative sentence, or
3 conditional discharge in accordance with Section 55 of this Act or parole~~[,]~~ or
4 postincarceration supervision in accordance with Section 52 of this Act
5 ~~[conditional release, or other form of release upon which the person has been~~
6 ~~released as provided in KRS 533.050].~~

7 (5) The releasing authority shall hold a hearing to determine the ability of the defendant
8 to make the payments; and in making this determination, the releasing authority
9 shall take into account the amount of any court costs, fines, or fees~~[fine]~~ imposed
10 upon the defendant and any amount the defendant has been ordered to pay in
11 restitution. In counties containing a city of the first class or an urban-county form of
12 government, the releasing authority may waive the payment of the fee in whole or in
13 part for defendants placed under the supervision of the adult misdemeanant
14 probation and work release program, if it finds that any of the factors in subsection
15 (6) of this section exist.

16 (6) Except as provided in subsection (2)(b) or (c) of this section, the releasing
17 authority shall not waive or suspend any fee unless the commissioner of the
18 Department of Corrections or his designee petitions the releasing authority in
19 written form for the waiver. The Department of Corrections shall not petition
20 unless:

21 (a) The offender is a student in a school, college, university, or course of
22 vocational or technical training designed to fit the student for gainful
23 employment. Certification of student status shall be supplied to the releasing
24 authority by the educational institution in which the offender is enrolled. In
25 such case, the fee may be postponed until completion of education but shall be
26 paid thereafter.

27 (b) The offender has an employment disability, as determined by a physical,

1 psychological, or psychiatric examination acceptable to, or ordered by, the
2 releasing authority.

3 (7) At any time during the pendency of the judgment or order rendered according to the
4 terms of this section, a defendant may petition the releasing authority to modify or
5 vacate its previous judgment or order on the grounds of change of circumstances
6 with regard to the defendant's ability to pay the fee. The releasing authority shall
7 advise the defendant of this right at the time of the rendering of the judgment or
8 order placing the defendant on probation, parole, or other supervised release.

9 (8) All sums paid by the defendant pursuant to this section shall be paid into the general
10 fund, except as provided in subsection (13) of this section.

11 (9) When granting a release of any supervised individual~~[defendant by way of~~
12 ~~probation, parole, or otherwise]~~, the releasing authority shall make the payment of
13 this fee a condition of release, unless the fee has been waived, suspended, reduced,
14 or delayed as provided in this section. Willful nonpayment shall be a technical
15 violation and shall be grounds for revocation of probation, probation with an
16 alternative sentence, or conditional discharge in accordance with~~[the release as~~
17 ~~provided in]~~ KRS 533.050 or parole or postincarceration supervision in
18 accordance with Section 52 of this Act.

19 (10) The releasing authority, if the Department of Corrections petitions the releasing
20 authority to modify the fee, shall consider the petition and may waive the payment
21 of the fee in whole or in part, delay payment of the fee, increase the fee, or deny the
22 petition.

23 (11) All fees fixed under the provisions of this section shall be collected by the circuit
24 clerk of the county where the defendant is supervised, except as provided in
25 subsection (13) of this section.

26 (12) The Department of Corrections and the Division of Probation and Parole shall, for
27 each person released under its supervision, keep an account of all payments made

1 and report delinquencies to the releasing authority.

2 (13) In a city, county, consolidated local government, charter county, or an urban-county
3 government, persons placed by a releasing authority on probation, parole, or other
4 release subject to supervision by the adult misdemeanor probation and work
5 release program of the county, city, consolidated local government, charter county,
6 or urban-county government shall pay a fee to offset the costs of supervising the
7 probation, parole, or other supervised release. The fees shall be assessed by the
8 releasing authority in accordance with the provisions of this section. The fee for a
9 misdemeanor defendant placed under the supervision of an adult misdemeanor
10 probation and work release program of a county, city, consolidated local
11 government, charter county, or an urban-county government shall be not less than
12 one hundred dollars (\$100) nor more than five hundred dollars (\$500) per year. All
13 sums paid by the defendant under this subsection shall be paid into the general fund
14 of the county, city, consolidated local government, charter county, or urban-county
15 government in lieu of the payment specified in subsection (8) of this section. All
16 fees fixed under this subsection shall be collected by the circuit clerk of the county
17 or urban-county involved. The adult misdemeanor probation and work release
18 program of the county, consolidated local government, city, charter county, or
19 urban-county government shall, for each person released under its supervision, keep
20 an account of all payments made, maintain copies of all receipts issued by the
21 circuit clerk, and report delinquencies to the court.

22 ➔Section 52. KRS 439.430 is amended to read as follows:

23 (1) Any parole officer having reason to believe that a parolee or a person on
24 postincarceration supervision pursuant to KRS 532.043 or 532.400 has violated the
25 terms of his or her release may arrest the parolee or offender on postincarceration
26 supervision without a warrant or may deputize any other peace officer to do so by
27 giving him or her a written statement setting forth that the parolee or offender on

1 postincarceration supervision, in the judgment of the parole officer, has violated the
2 conditions of his or her release. The written statement delivered with the parolee or
3 offender on postincarceration supervision by the arresting officer to the official in
4 charge of the station house, jail, workhouse, or other place of detention, shall be
5 sufficient warrant for the detention of the parolee or offender on postincarceration
6 supervision. The parole officer who arrests or causes the arrest of the prisoner shall
7 notify the commissioner or his or her designee at once of the arrest and detention of
8 the parolee or offender on postincarceration supervision, and shall submit in writing
9 a report showing in what manner there has been a violation of the conditions of
10 release. **Except as provided under subsection (2) of this section**~~[Thereupon]~~, if the
11 commissioner or his or her designee believes the parolee or offender on
12 postincarceration supervision should **have his or her parole or postincarceration**
13 **supervision revoked and** be returned to prison, the commissioner or his or her
14 designee at once shall submit his or her recommendations to the board, and, if the
15 board approves, it shall issue a warrant upon which the releasee shall be returned to
16 prison; otherwise the prisoner shall be released upon the order of the commissioner
17 or his or her designee.

18 (2) **If the parolee has committed a technical violation and the commissioner or his or**
19 **her designee believes the parolee should have his or her parole revoked and be**
20 **returned to prison, the commissioner or his or her designee at once shall submit**
21 **his or her recommendations to the board, and, if the board approves, may issue a**
22 **summons in lieu of a warrant for the parolee to appear before the board for a**
23 **hearing. A written statement, approved by the commissioner or his or her**
24 **designee, by a parole officer, and filed with the board setting forth that the**
25 **parolee in the judgment of the officer has committed a technical violation of the**
26 **condition of his or her release, shall be sufficient cause for the board, in its**
27 **discretion, to issue a summons for the parolee to appear before the board. The**

1 summons shall be accompanied by a copy of the written statement filed with the
2 board.

3 **(3)** A written statement, approved by the commissioner or his or her designee, by a
4 parole officer, and filed with the board setting forth that the parolee or offender on
5 postincarceration supervision in the judgment of the officer has violated the
6 condition of his or her release, shall be sufficient cause for the board, in its
7 discretion, to issue a warrant for the arrest of the parolee or offender on
8 postincarceration supervision or for his or her return to prison.

9 ~~(4)~~~~(3)~~ A prisoner for whose return a warrant or summons has been issued by the
10 board, shall be deemed a fugitive from justice or to have fled from justice. If it shall
11 appear he or she has violated the provisions of his or her release, the time from the
12 issuing of the warrant or summons to the date of his or her arrest shall not be
13 counted as any part of the time to be served in determining his or her final discharge
14 eligibility date from parole if the board in its discretion so orders.

15 ~~(5)~~~~(4)~~ The Parole Board may at its discretion issue a summons for a parolee when
16 in its judgment a technical violation of the condition of release has been violated
17 or a warrant for any parolee or offender on postincarceration supervision when in
18 its judgment the condition of release has been violated. The summons shall be
19 accompanied by a copy of the written statement filed with the board.

20 **(6)** The board shall only revoke parole or postincarceration supervision after:

21 (a) A preliminary hearing conducted pursuant to Section 50 of this Act found
22 probable cause that the parolee or offender on postincarceration
23 supervision failed to comply with a condition of supervision; and

24 (b) A final revocation hearing was held. If a final revocation hearing is held for
25 a technical violation, the hearing shall be in accordance with subsection (7)
26 of this section.

27 **(7)** If the parolee is arrested on a warrant and detained for a technical violation, a

1 final revocation hearing shall be held within thirty (30) business days of the date
 2 of the preliminary revocation hearing. If a final revocation hearing does not
 3 occur within thirty (30) business days of the date of the preliminary revocation
 4 hearing, a show cause hearing may be held to extend the period of detainment.
 5 However, the period of detainment for a technical violation shall never exceed the
 6 maximum period of imprisonment for a technical violation established in
 7 subsection (8) of this section. If no show cause hearing is held before the
 8 expiration of the maximum period of imprisonment for a technical violation, the
 9 parolee shall be released from detention and continued on parole.

10 (8) If, at the final revocation hearing, the board finds that the parolee committed a
 11 technical violation, the board may continue supervision with additional
 12 conditions or revoke parole and impose a term of imprisonment of not more than:
 13 (a) For the first revocation for a technical violation, thirty (30) days;
 14 (b) For the second revocation for a technical violation, ninety (90) days;
 15 (c) For the third revocation for a technical violation, one hundred eighty (180)
 16 days; and
 17 (d) For the fourth and any subsequent revocation for a technical violation, two
 18 (2) years;
 19 in a state or local correctional or detention facility or residential center before
 20 being released and continued on community supervision. However, the term of
 21 imprisonment shall not exceed the parolee's sentence expiration date.

22 ➔Section 53. The following KRS section is repealed:

23 439.440 Prisoner returned to prison for violation of release to be heard by board -- Time.

24 ➔Section 54. KRS 533.020 is amended to read as follows:

25 (1) When a person who has been convicted of an offense or who has entered a plea of
 26 guilty to an offense is not sentenced to imprisonment, the court shall place him on
 27 probation if he is in need of the supervision, guidance, assistance, or direction that

1 the probation service can provide. Conditions of probation shall be imposed as
2 provided in KRS 533.030, but the court may modify or enlarge the conditions or, if
3 the defendant commits an additional offense or violates a condition, revoke the
4 sentence at any time prior to the expiration or termination of the period of probation
5 *in accordance with Section 55 of this Act.* When setting conditions under this
6 subsection, the court shall not order any defendant to pay incarceration costs or any
7 other cost permitted to be ordered under KRS 533.010 or other statute, except
8 restitution and any costs owed to the Department of Corrections, through the circuit
9 clerk.

10 (2) When a person who has been convicted of an offense or who has entered a plea of
11 guilty to an offense is not sentenced to imprisonment, the court may sentence him to
12 probation with an alternative sentence if it is of the opinion that the defendant
13 should conduct himself according to conditions determined by the court and that
14 probationary supervision alone is insufficient. The court may modify or enlarge the
15 conditions or, if the defendant commits an additional offense or violates a
16 condition, revoke the sentence at any time prior to the expiration or termination of
17 the alternative sentence *in accordance with Section 55 of this Act.*

18 (3) When a person who has been convicted of an offense or who has entered a plea of
19 guilty to an offense is not sentenced to imprisonment, the court may sentence him to
20 conditional discharge if it is of the opinion that the defendant should conduct
21 himself according to conditions determined by the court but that probationary
22 supervision is inappropriate. Conditions of conditional discharge shall be imposed
23 as provided in KRS 533.030, but the court may modify or enlarge the conditions or,
24 if the defendant commits an additional offense or violates a condition, revoke the
25 sentence at any time prior to the expiration or termination of the period of
26 conditional discharge *in accordance with Section 55 of this Act.*

27 (4) The period of probation, probation with an alternative sentence, or conditional

1 discharge shall be fixed by the court and at any time may be extended or shortened
 2 by duly entered court order. Such period~~[, with extensions thereof,]~~ shall not exceed
 3 four (4)~~[five (5)]~~ years, or the time necessary to complete restitution, whichever is
 4 longer, upon conviction of a felony nor two (2) years, or the time necessary to
 5 complete restitution, whichever is longer, upon conviction of a misdemeanor. Upon
 6 completion of the probationary period, probation with an alternative sentence, or the
 7 period of conditional discharge, the defendant shall be deemed finally discharged,
 8 provided no warrant issued by the court is pending against him, and probation,
 9 probation with an alternative sentence, or conditional discharge has not been
 10 revoked.

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

15 ➔Section 55. KRS 533.050 is amended to read as follows:

- 16 (1) At any time before the discharge of the defendant or the termination of the sentence
 17 of probation, probation with an alternative sentence, or conditional discharge:

18 (a) The court may summon the defendant to appear before it or may issue a
 19 warrant for his arrest upon a finding of probable cause to believe that he has
 20 failed to comply with a condition of the sentence; or

21 (b) A probation officer, or peace officer acting at the direction of a probation
 22 officer, who sees the defendant violate the terms of his probation, probation
 23 with an alternative sentence, or conditional discharge may arrest the
 24 defendant without a warrant.

- 25 (2) ~~[Except as provided in KRS 439.3108,]~~The court may not:

26 (a) Modify the conditions of a sentence of probation, probation with an
 27 alternative sentence, or conditional discharge except after a hearing with

1 the defendant represented by counsel and following a written notice of the
2 grounds for modification; or

3 (b) Revoke ~~for modify~~ the conditions of a sentence of probation, probation with
4 an alternative sentence, or conditional discharge except after a final
5 revocation hearing in accordance with subsections (3) and (4) of this section
6 with the defendant represented by counsel and following a written notice of
7 the grounds for revocation~~for modification~~.

8 (3) If the defendant is arrested on a warrant and detained for a technical violation, a
9 final revocation hearing shall be held within thirty (30) business days of the date
10 of the preliminary revocation hearing. If a final revocation hearing for a
11 technical violation does not occur within thirty (30) business days of the date of
12 the preliminary revocation hearing, a show cause hearing may be held to extend
13 the period of detainment. However, the period of detainment for a technical
14 violation shall never exceed the maximum period of detainment for technical
15 violations established in subsection (4) of this section. If no show cause hearing
16 is held before the expiration of the maximum period of detainment for a technical
17 violation, the defendant shall be released from detention and continued on
18 probation, probation with an alternative sentence, or conditional discharge.

19 (4) If, at the final revocation hearing, the court finds that the defendant committed a
20 technical violation, the court may continue supervision with additional conditions
21 or revoke a sentence of probation, probation with an alternative sentence, or
22 conditional discharge and impose a term of imprisonment of not more than:

23 (a) For the first revocation for a technical violation, thirty (30) days;

24 (b) For the second revocation for a technical violation, ninety (90) days;

25 (c) For the third revocation for a technical violation, one hundred eighty (180)
26 days; and

27 (d) For the fourth and any subsequent revocation for a technical violation, two

1 (2) years;
2 in a state or local correctional or detention facility or residential center before
3 being released and continued on probation, probation with an alternative
4 sentence, or conditional discharge. However, the term of imprisonment shall not
5 exceed the defendant's sentence expiration date.

6 ➔Section 56. Sections 50 to 55 of this Act take effect on January 1, 2019.

7 ➔SECTION 57. A NEW SECTION OF KRS 439.250 TO 439.560 IS CREATED
8 TO READ AS FOLLOWS:

9 (1) A supervised individual on probation, probation with an alternative sentence, or
10 conditional discharge shall receive probation compliance credits to be applied
11 toward the individual's sentence, if the supervised individual does the following:

12 (a) Fulfills the terms of his or her case plan;

13 (b) Has no new arrests; and

14 (c) Makes scheduled monthly payments for restitution, if any.

15 (2) If in compliance with subsection (1) of this section, a supervised individual on
16 probation, probation with an alternative sentence, or conditional discharge shall
17 receive probation compliance credits for the following:

18 (a) Successfully receiving a High School Equivalency Diploma or a high
19 school diploma, a two (2) or four (4) year college degree, a two (2) or four
20 (4) year degree in applied sciences, a completed technical education
21 program, or an online or correspondence education program, each as
22 provided and defined by the department, or a civics education program that
23 requires passing a final exam, in the amount of ninety (90) days per
24 diploma, degree, or technical education program completed;

25 (b) Successfully completing a drug treatment program or other evidence-based
26 program approved by the department, in the amount of not more than
27 ninety (90) days for each program completed;

1 (c) Performing exceptionally meritorious service, performing duties of
 2 outstanding importance in connection with the department's operations and
 3 programs, or performing acts of exceptional service during times of
 4 emergency, awarded at the discretion of the commissioner in an amount not
 5 to exceed seven (7) days per month;

6 (d) Work-for-time in accordance with KRS 197.047; and

7 (e) After one (1) full calendar month of being supervised, thirty (30) days of
 8 earned discharge credit for every full calendar month he or she is
 9 substantially compliant with supervision. As used in this paragraph,
 10 "substantially compliant" means he or she meets the requirements of
 11 subsection (1) of this section.

12 (3) The department shall promulgate administrative regulations for the awarding of
 13 probation compliance credits.

14 ➔Section 58. KRS 439.345 is amended to read as follows:

15 (1) A supervised~~[An]~~ individual on parole shall receive parole compliance credits to be
 16 applied toward the individual's sentence, if the supervised~~[paroled]~~ individual does
 17 all of the following:

- 18 (a) Fulfills the terms of his or her case plan;
 19 (b) Has no new arrests; and
 20 (c) Makes scheduled monthly payments for restitution, if any.

21 (2) (a) After one (1) full calendar month of being supervised, a supervised individual
 22 eligible under this subsection on parole shall receive thirty (30) days of earned
 23 discharge~~[supervised compliance]~~ credit for every full calendar month he or
 24 she is substantially compliant with supervision~~[. After a supervised individual~~
 25 ~~has served at least one (1) year on supervision, the accrued supervised~~
 26 ~~compliance credits shall be applied towards the individual's sentence].~~

27 (b) As used in this subsection:

- 1 1. "Eligible" means an offender being supervised for a Class D felony that:
- 2 a. Does not qualify the offender as a violent offender as defined in
- 3 KRS 439.3401 or a sexual offender as defined in KRS 17.550; and
- 4 b. Did not result from a conviction of KRS 508.025 where the victim
- 5 was a peace officer; and
- 6 2. "Substantially compliant" means:
- 7 a. Compliance with the terms of his or her case plan;
- 8 b. Has no new arrests; and
- 9 c. Makes scheduled monthly payments for restitution, if any.
- 10 (3) (a) After one (1) full calendar month of being supervised, a supervised individual
- 11 eligible under this subsection on parole shall receive thirty (30) days of earned
- 12 discharge~~[supervised compliance]~~ credit for every full calendar month he or
- 13 she is substantially compliant with supervision~~[- After a supervised individual~~
- 14 ~~has served at least two (2) years on supervision, the accrued supervised~~
- 15 ~~compliance credits shall be applied towards the individual's sentence].~~
- 16 (b) As used in this subsection:
- 17 1. "Eligible" means an offender who:
- 18 a. Is not a persistent felony offender; and
- 19 b. Is being supervised for a Class C felony that:
- 20 i. Does not qualify the offender as a violent offender as defined
- 21 in KRS 439.3401 or a sexual offender as defined in KRS
- 22 17.550; and
- 23 ii. Did not result from a conviction of KRS 218A.1401,
- 24 218A.1410, 218A.1411, 218A.1412, 218A.1413, 218A.1414,
- 25 218A.1421, 218A.1423, 218A.1430, 218A.1438, 218A.1439,
- 26 or 218A.286; and
- 27 2. "Substantially compliant" means:

- 1 a. Compliance with the terms of his or her case plan;
- 2 b. Has no new arrests; and
- 3 c. Makes scheduled monthly payments for restitution, if any.

4 (4) The department shall promulgate administrative regulations for the awarding of
 5 parole compliance credits [~~and supervised compliance credits~~] pursuant to this
 6 section.

7 ➔Section 59. KRS 441.127 is amended to read as follows:

- 8 (1) The jailer or correctional services department shall grant sentence credits to inmates
 9 confined in the county jail on conviction of misdemeanor charges.
- 10 (2) Credit, if granted, shall be uniform and shall be based on the following:
 - 11 (a) For labor performed without the jail in a community service program or
 12 within the jail for the maintenance of the jail or for the operation of jail
 13 services such as food service:
 - 14 1. For every eight (8) full hours of work, one (1) sentence credit shall be
 15 earned; and
 - 16 2. For every five (5) of sentence credits earned, one (1) day of the sentence
 17 to be served by the inmate shall be deducted;
 - 18 (b) For successfully receiving a general equivalency diploma or a high school
 19 diploma, a service credit of ***ninety (90)***[~~thirty (30)~~] days shall be earned;
 - 20 ***(c) For each day an inmate participates in a drug treatment program or other***
 21 ***evidence-based program approved by the department, a service credit of one***
 22 ***(1) day shall be earned;***
 - 23 ***(d) For performing exceptionally meritorious service, performing duties of***
 24 ***outstanding importance in connection with the jail's operations and***
 25 ***programs, or performing acts of exceptional service during times of***
 26 ***emergency, an amount not to exceed seven (7) days per act shall be earned,***
 27 ***to be determined by the jailer or chief executive of the jail for the conduct of***

1 *the inmate;* and

2 ~~(e)~~ For good behavior, an amount not to exceed ten (10)~~five (5)~~ days shall
3 be earned for each month served, to be determined by the jailer or chief
4 executive of the jail for the conduct of the inmate.

5 (3) Sentence credits shall be deducted from the maximum expiration date of the
6 sentence.

7 ~~(4)~~~~(3)~~ If an inmate violates the rules of the jail or engages in other misconduct the
8 jailer or correctional services department may withdraw sentence credits earned by
9 the inmate. The jailer or correctional services department shall maintain a list of
10 offenses and penalties for the ten (10) most common offenses and rule violations.

11 ➔Section 60. KRS 439.3105 is amended to read as follows:

12 (1) The department shall promulgate administrative regulations in accordance with the
13 provisions of this section to establish an administrative caseload supervision
14 program for supervised individuals whose results from a risk and needs assessment
15 indicate that they are low-risk offenders.

16 (2) The administrative caseload supervision program shall consist of administrative
17 monitoring of supervised individuals to ensure that they have not engaged in new
18 criminal activity and are fulfilling financial obligations to the court.

19 (3) If a supervised individual on administrative caseload supervision:

20 (a) ~~[Does not fulfill his or her restitution or other financial obligations to the~~
21 ~~court, he or she may be placed on a higher level of supervision at the~~
22 ~~discretion of the department; or~~

23 ~~(b)~~ Engages in criminal activity, he or she may be prosecuted, revoked, or placed
24 on a higher level of supervision; or

25 ~~(b)~~~~(e)~~ Exhibits signs or symptoms of a substance abuse disorder, he or she may
26 be assessed by the Administrative Office of the Courts drug court personnel
27 for consideration of admission into drug court.

- 1 (4) A supervised individual on a higher level of supervision who demonstrates
 2 **compliance with the terms and conditions of his or her supervision**~~[a reduction in~~
 3 ~~criminal risk factors upon reassessment and who has achieved the goals established~~
 4 ~~in his or her case plan]~~ may be placed on administrative caseload supervision at the
 5 discretion of the department.
- 6 (5) A supervised individual on a higher level of supervision shall presumptively be
 7 placed on administrative supervision if he or she has:
- 8 (a) Completed **six (6)**~~[twelve (12)]~~ months of community supervision;
- 9 (b) Not violated the terms of his or her community supervision in the previous **six**
 10 **(6)**~~[twelve (12)]~~ months;
- 11 (c) ~~[Fulfilled all restitution and other financial obligations to the court;~~
 12 ~~(d)—]~~ Demonstrated a reduction in criminal risk factors upon reassessment; and
 13 **(d)**~~[(e)]~~ Achieved the goals established in his or her case plan.
- 14 (6) If the conditions or level of community supervision of a probationer are modified
 15 under this section, the probation and parole officer shall file a copy of the modified
 16 conditions or level with the sentencing court.
- 17 (7) The department may establish by administrative regulation conditions for overriding
 18 presumptive administrative supervision.

19 ➔SECTION 61. A NEW SECTION OF KRS 439.250 TO 439.560 IS CREATED
 20 TO READ AS FOLLOWS:

- 21 **(1) As used in this section, "eligible geriatric prisoner" means a prisoner:**
- 22 **(a) Who is sixty-five (65) years of age or older;**
- 23 **(b) Has served at least fifteen percent (15%) of his or her sentence; and**
- 24 **(c) Does not qualify as a violent offender as defined in KRS 439.3401 or a sex**
 25 **offender as defined in KRS 17.550.**
- 26 **(2) Notwithstanding any statute eliminating parole or establishing minimum time for**
 27 **parole eligibility for a certain class or status of offender, including but not limited**

1 to Section 41 of this Act and KRS 532.080 and 533.060, the board shall review the
 2 case of an eligible geriatric prisoner and may release the prisoner on parole
 3 despite any elimination of or minimum time for parole eligibility.

4 (3) If the board denies a request for parole under this section, the board shall notify
 5 the prisoner in writing and indicate the reason for the denial.

6 ➔Section 62. KRS 439.3405 is amended to read as follows:

7 (1) Notwithstanding any statute eliminating parole or establishing minimum time for
 8 parole eligibility for a certain class or status of offender, including but not limited
 9 to KRS 439.340(11), 439.3401, 532.080~~[(7)]~~, and 533.060, the board, with the
 10 written consent of a majority of the full board, may review the case of any prisoner
 11 not convicted of a capital offense and not sentenced to death and release that
 12 prisoner on parole despite any elimination of or minimum time for parole eligibility,
 13 when the prisoner:

14 (a) Has a documented:

15 1. Terminal or chronic medical condition;~~likely to result in death within~~
 16 ~~one (1) year or~~

17 2. Severe chronic lung disease, end-stage heart disease, or severe neuro-
 18 muscular disease such as multiple sclerosis;~~or has~~

19 3. Severely limited mobility as a result of stroke, disease, or trauma;~~or~~

20 4. Dependence~~is dependent~~ on external life support systems; or

21 5. Other physical or mental disability, incapacity, or infirmity that as a
 22 result of advanced age, chronic illness, or disease the prisoner would
 23 be incapable of being a danger; and

24 (b) Would not pose a threat to society if paroled.

25 (2) A request for parole under this section may be submitted to the Department of
 26 Corrections by a prisoner, a prison official or employee, a medical professional,
 27 or a prisoner's representative including an attorney or family member of the

1 *prisoner. The request shall be in writing and shall articulate the grounds*
2 *supporting release pursuant to this section.*

3 **(3)** Medical information considered under this section shall be limited to the medical
4 findings supplied by Department of Corrections medical staff. The medical staff
5 shall provide in writing the prisoner's diagnosis and prognosis in support of the
6 conclusion that the prisoner suffers from a *physical or mental condition that*
7 *qualifies him or her for parole pursuant to*~~terminal medical condition likely to~~
8 ~~result in death within one (1) year or because of the conditions set forth in]~~
9 subsection (1) of this section~~[he or she is substantially dependent on others for the~~
10 ~~activities of daily living].~~

11 ~~**(4)**~~~~[(3)]~~ The medical information prepared by the Department of Corrections medical
12 staff under this section shall be forwarded to the medical director of the Department
13 of Corrections who shall submit that information and a recommendation for or
14 against parole review under this section to the commissioner of the Department of
15 Corrections or his or her designee. With the approval of the commissioner of the
16 Department of Corrections, a request for parole review under this section, along
17 with the medical information and medical director's recommendation, shall be
18 submitted to the board.

19 ~~**(5)**~~~~[(4)]~~ Medical information presented under this section shall be considered along
20 with other information relevant to a decision regarding the granting of parole and
21 shall not constitute the only reason for granting parole.

22 ~~**(6)**~~~~[(5)]~~ Notwithstanding KRS 439.340(5), in addition to or in conjunction with each
23 review conducted under subsection (1) of this section for any prisoner convicted of
24 a Class A or B felony, or of a Class C felony involving violence or a sexual offense
25 and prior to the granting of parole to any such prisoner, the Parole Board shall
26 conduct a hearing of which the following persons shall receive not less than fifteen
27 (15) nor more than thirty (30) days' notice:

- 1 (a) The Commonwealth's attorney, who shall notify the sheriff of every county
2 and the chief of police of every city and county in which the prisoner
3 committed any Class A, B, or C felony for which he or she is imprisoned; and
4 (b) All identified victims of the crimes or the next of kin of any victim who is
5 deceased.

6 Notice to the Commonwealth's attorney shall be by mail, fax, or electronic means,
7 at the discretion of the board, and shall be in a manner that ensures receipt at the
8 Commonwealth attorney's business office. Notices received by chiefs of police and
9 sheriffs shall be posted in a conspicuous location where police employed by the
10 department may see it. Notices shall be posted in a manner and at a time that will
11 allow officers to make comment thereon to the Parole Board. Notice to victims or
12 their next of kin shall be made by mail, fax, or electronic means, at the discretion of
13 the board, to their last known address or telephone number as provided by the
14 Commonwealth's attorney to the Parole Board at the time of incarceration of the
15 prisoner. Notice to the victim or the next of kin of subsequent considerations for
16 parole after the initial consideration shall not be sent if the victim or the next of kin
17 gives notice to the board that he or she no longer wants to receive such notices. The
18 notice shall include the time, date, and place of the hearing provided for in this
19 subsection, and the name and address of a person to write if the recipient of the
20 notice desires to attend the hearing or to submit written comments.

21 **(7) If the board denies a request to release a prisoner pursuant to this section, the**
22 **board shall notify the prisoner in writing and indicate the reason for the denial.**

23 ➔Section 63. KRS 534.020 is amended to read as follows:

- 24 (1) When a defendant is sentenced to pay court costs, fees, or fines, the court may
25 provide for payment to be made within a specified period of time or in specified
26 installments. If no such provision is made a part of the sentence, then the court
27 costs, fees, or fines shall be payable forthwith.

1 (2) If the court establishes an installment payment plan for a defendant to pay the full
2 amount of court costs, fees, or fines:

3 (a) *The installment payment plan shall be determined by assessing the*
4 *discretionary income of the defendant. The court shall order the total*
5 *amount of the court costs, fees, and fines of the defendant, excluding*
6 *restitution, be paid in an installment less than or equal to ten percent (10%)*
7 *of the discretionary income of the defendant. As used in this paragraph,*
8 *"discretionary income" means income in excess of one hundred fifty*
9 *percent (150%) of the federal poverty line;*

10 (b) The defendant shall be given notice of the total amount due, the payment
11 frequency, and the date by which all payments must be made. The notice shall
12 indicate that if the defendant has not complied with the installment payment
13 plan by the scheduled date, he or she shall appear on that date to show good
14 cause as to why he or she is unable to satisfy the obligations. This notice shall
15 be given to the defendant in writing on a form provided by the Administrative
16 Office of the Courts;

17 (c)~~(b)~~ Except as provided in subsection (3) of this section, all court costs, fees,
18 and fines shall be paid:

19 1. Within one (1) year of the date of sentencing; or

20 2. *If a supervised individual as defined in Section 38 of this Act, within*
21 *the length of his or her supervision period;*

22 notwithstanding any remaining restitution or other monetary penalty owed by
23 the defendant and arising out of the conviction; and

24 (d)~~(e)~~ Installment payments shall be applied first to court costs, then to
25 restitution, then to fees, and then to fines.

26 (3) (a) If a defendant is required to appear at a show cause hearing pursuant to
27 subsection (2)(b)~~(a)~~ of this section, the court shall determine whether the

1 defendant's default in payment of court costs, fees, or fines is:

2 1. Excusable due to an inability to pay, and if so, the court may enter an
3 order to:

4 **a.** ~~Allow~~[Allowing] additional time for payment, ~~reduce~~[reducing]
5 the amount of each installment, or ~~modify~~[modifying] the manner
6 of payment in any other way; **or**

7 **b.** Perform community service in lieu of payment for outstanding
8 court costs, fees, or fines until the order is paid or until the court
9 is satisfied that the defendant is in compliance with the approved
10 installment payment plan; or

11 2. Willful and not due to an inability to pay, and if so, the court may order
12 the defendant to:

13 **a.** Perform community service in lieu of payment for outstanding
14 court costs, fees, or fines until the order is paid or until the court
15 is satisfied that the defendant is in compliance with the approved
16 installment payment plan; or

17 **b.** Jail on the condition that the defendant shall be released upon
18 payment or completion of daily credit pursuant to KRS 534.070.

19 (b) If the defendant fails to appear at the show cause hearing, the court may issue
20 a warrant for the defendant's arrest. Any warrant for arrest issued for
21 nonpayment of court costs, fees, or fines pursuant to this subsection shall
22 include a notice to the jailer that the defendant shall be released upon payment
23 or completion of daily credit pursuant to KRS 534.070.

24 **(c)** If the court orders the defendant to perform community service in lieu of
25 outstanding court costs, fees, or fines pursuant to paragraph (a) of this
26 subsection, the defendant shall receive credit upon the order at a specified
27 hourly credit rate per hour of community service performed, and each hour

1 of community service performed will reduce the order by that amount. As
 2 used in this paragraph, "specified hourly credit rate" means an hourly
 3 credit rate set by the court, which shall not be less than the prevailing
 4 federal minimum wage.

5 (4) When a defendant is sentenced to pay court costs, fees, or fines, an alternative
 6 sentence of imprisonment that is to be served in the event the court costs, fees, or
 7 fines are not paid shall not be imposed at the same time. The response of a court to
 8 nonpayment shall be determined only after:

- 9 (a) The court costs, fees, or fines have not been paid; and
 10 (b) 1. The show cause hearing has been held pursuant to subsections
 11 (2)(~~b~~)(~~a~~) and (3)(a) of this section; or
 12 2. The defendant has failed to appear at the show cause hearing as outlined
 13 in subsection (3)(b) of this section.

14 (5) Court costs, fees, or fines being paid under an installment payment plan that is
 15 actively monitored by the court shall not be reported as part of the inventory of
 16 liquidated debt pursuant to KRS 45.241.

17 ➔Section 64. KRS 431.066 is amended to read as follows:

18 (1) For purposes of this section and Section 65 of this Act:~~;~~

19 (a) "Enhanced scrutiny offense" means a violation of KRS 189A.010(5)(c) and
 20 (d), 209.990(2), (3), and (4), 218A.1432, 507A.040, 507A.050, 508.020,
 21 508.025, 508.030 excluding minor injury or no visible injury, 508.040(2)(a)
 22 and (b), 508.050, 508.060, 508.075, 508.078, 508.100, 508.110, 508.120,
 23 508.140, 508.150, 509.020, 509.040, 510.120, 510.130, 511.020, 513.030,
 24 513.040, 515.020, 515.030, 518.090, 525.020, 527.205, 529.100, or 529.110;

25 (b) "Money bail" means any financial condition of release including cash,
 26 property, a percentage of cash bail, secured, unsecured, or otherwise;

27 (c) "Standard conditions" means the following:

- 1 1. The defendant shall not commit a local, state, or federal offense;
 2 2. The defendant shall appear for all required court appearances; and
 3 3. The defendant shall avoid all contact with any alleged victim and any
 4 potential witness who may testify concerning the charge, unless or
 5 until the court removes this condition;

6 (d) "Verified and eligible defendant" means a defendant who pretrial services is
 7 able to interview and assess, and whose identity pretrial services is able to
 8 confirm through investigation; and

9 (e) "Violent or sexual offense" means an offense that would qualify a
 10 defendant if convicted as a violent offender under KRS 439.3401 or an
 11 offense under KRS Chapter 510, KRS 529.100 involving commercial sexual
 12 activity, KRS 530.020, 530.064(1)(a), 531.310, or 531.320.

13 (2) No verified and eligible defendant shall be detained on money bail except for a
 14 high-risk defendant not charged with a violent or sexual offense who meets the
 15 money bail requirements of subsection (3) of Section 65 of this Act.

16 (3) (a) Pretrial services shall use a validated pretrial risk assessment tool to
 17 determine whether a verified and eligible defendant presents a low,
 18 moderate, or high risk of failing to appear for required court appearances
 19 or committing criminal conduct while on pretrial release pending
 20 adjudication.

21 (b) The validated pretrial risk assessment tool shall consider a defendant's risk
 22 of failing~~[When a court considers pretrial release and bail for an arrested~~
 23 defendant, the court shall consider whether the defendant constitutes a flight
 24 risk, is unlikely] to appear for required court appearances[trial], or being[or
 25 is likely to be] a danger to the public if released, by considering factors that
 26 may include but are not limited to prior failure to appear for scheduled
 27 court appearances, prior criminal history, types of offenses, and any other

1 factors determined appropriate or necessary by pretrial services~~[In making~~
 2 ~~this determination, the court shall consider the pretrial risk assessment for a~~
 3 ~~verified and eligible defendant along with the factors set forth in KRS~~
 4 ~~431.525].~~

5 (c) The validated pretrial risk assessment tool shall be regularly validated and
 6 adjusted to ensure that it is predictive of pretrial outcomes and accurately
 7 predicts risk across all racial groups, ethnic groups, and genders. The tool
 8 shall be adjusted to ensure accuracy and to minimize disparate results.

9 ~~(4)~~~~[(3)]~~ (a) If a verified and eligible defendant:

10 1. Poses a low or moderate risk as determined under subsection (3) of
 11 this section;

12 2. Has been charged with a violation, misdemeanor, or Class D felony;

13 3. Has not been charged with a violent or sexual offense;

14 4. Has not been charged with an enhanced scrutiny offense; and

15 5. Has not been charged with a violation of KRS 17.510, 17.545, 17.546,
 16 17.549, 119.255, 189A.010(5)(b) to (d), 209.990, a second or
 17 subsequent offense of 235.240, 403.763, 456.120, 456.180, 507.050,
 18 508.030 with minor or no visible injury, 508.070, 508.080, 508.120,
 19 508.155, 509.030, 509.080, 511.085, 514.080, 520.090, 524.040,
 20 525.120, 525.125, 525.130, 525.135, 525.205, 527.020, 529.020,
 21 529.040(2), 529.070, 529.080, 529.090, 530.010, 530.060, 531.020,
 22 531.030, 531.040, 531.050, 531.060, 531.090, 531.100, 531.335,
 23 531.340, 531.350, 531.360, or 531.370;

24 the defendant shall be released on his or her own recognizance by a pretrial
 25 officer, unless the defendant has been convicted of a violent or sexual
 26 offense within five (5) years prior to his current offense, in which case the
 27 pretrial officer, upon approval of his or her pretrial supervisor, may refer

1 the defendant to the court.

2 (b) If a pretrial officer refers a defendant to the court pursuant to paragraph
 3 (a) of this subsection, the court may order the defendant released on his or
 4 her own recognizance subject to standard conditions, may impose
 5 additional nonfinancial conditions as outlined in KRS 431.064, 431.518,
 6 and Section 68 of this Act, or may, either on its own or by motion of the
 7 prosecutor, detain the defendant until a detention hearing is held pursuant
 8 to Section 65 of this Act.

9 (5) (a) When the court is making a bail determination for~~ff~~ a verified and eligible
 10 defendant, if the defendant:

11 1. Poses a low risk as determined under subsection (3) of this section;

12 2. Has been charged with a Class A, B, or C felony; and

13 3. Has not been charged with a violent or sexual offense or with an
 14 enhanced scrutiny offense;~~[of flight, is likely to appear for trial, and is~~
 15 ~~not likely to be a danger to others,]~~

16 the court shall order the defendant released on his or her~~[unsecured bond or~~
 17 ~~on the defendant's]~~ own recognizance subject to standard~~[such other]~~
 18 ~~conditions [as the court may order].~~

19 (b) When the court is making a bail determination for a verified and eligible
 20 defendant, if the defendant:

21 1. Poses a low risk as determined under subsection (3) of this section;

22 2. Has been charged with a Class A, B, or C felony; and

23 3. Has not been charged with a violent or sexual offense but has been
 24 charged with an enhanced scrutiny offense;

25 the court shall order the defendant released on his or her own recognizance
 26 subject to standard conditions and may impose additional nonfinancial
 27 conditions as outlined in KRS 431.064, 431.518, and Section 68 of this Act.

1 (c) When the court is making a bail determination for a verified and eligible
 2 defendant, if the defendant:
 3 1. Poses a low risk as determined under subsection (3) of this section;
 4 and
 5 2. Has been charged with a violent or sexual offense;
 6 the court may order the defendant released on his or her own recognizance
 7 subject to standard conditions, may impose additional nonfinancial
 8 conditions as outlined in KRS 431.064, 431.518, and Section 68 of this Act,
 9 or may, either on its own or by motion of the prosecutor, detain the
 10 defendant until a detention hearing is held pursuant to Section 65 of this
 11 Act.

12 ~~(6)~~(4) (a) When the court is making a bail determination for~~[H]~~ a verified and
 13 eligible defendant, if the defendant:
 14 1. Poses a moderate risk as determined under subsection (3) of this
 15 section;
 16 2. Has been charged with a Class A, B, or C felony; and
 17 3. Has not been charged with a violent or sexual offense or with an
 18 enhanced scrutiny offense;~~[of flight, has a moderate risk of not~~
 19 ~~appearing for trial, or poses a moderate risk of danger to others,]~~
 20 the court shall order~~[release]~~ the defendant released on his or her own
 21 recognizance subject to standard~~[under the same]~~ conditions~~[as in~~
 22 ~~subsection (3) of this section]~~ and may impose additional nonfinancial
 23 conditions as outlined in KRS 431.064, 431.518, and Section 68 of this Act
 24 ~~[but shall consider ordering the defendant to participate in global positioning~~
 25 ~~system monitoring, controlled substance testing, increased supervision, or~~
 26 ~~such other conditions as the court may order].~~

27 (b) When the court is making a bail determination for a verified and eligible

1 defendant, if the defendant:
2 1. Poses a moderate risk as determined under subsection (3) of this
3 section;
4 2. Has been charged with a Class A, B, or C felony; and
5 3. Has not been charged with a violent or sexual offense but has been
6 charged with an enhanced scrutiny offense;
7 the court may order the defendant released on his or her own recognizance
8 subject to standard conditions, may impose additional nonfinancial
9 conditions as outlined in KRS 431.064, 431.518, and Section 68 of this Act,
10 or may, either on its own or by motion of the prosecutor, detain the
11 defendant until a detention hearing is held pursuant to Section 65 of this
12 Act.

13 (c) When the court is making a bail determination for a verified and eligible
14 defendant, if the defendant:
15 1. Poses a moderate risk as determined under subsection (3) of this
16 section; and
17 2. Has been charged with a violent or sexual offense;
18 the court shall detain the defendant until a detention hearing is held
19 pursuant to Section 65 of this Act.

20 ~~(7)~~~~(5)~~ (a) When the court is making a bail determination for a verified and
21 eligible defendant, if the defendant:
22 1. Poses a high risk as determined under subsection (3) of this section;
23 2. Has been charged with a violation, misdemeanor, or Class D felony;
24 and
25 3. Has not been charged with a violent or sexual offense or with an
26 enhanced scrutiny offense;
27 the court shall order the defendant released on his or her own recognizance

1 subject to standard conditions and may impose additional nonfinancial
2 conditions as outlined in KRS 431.064, 431.518, and Section 68 of this Act.

3 (b) When the court is making a bail determination for a verified and eligible
4 defendant, if the defendant;

5 1. Poses a high risk as determined under subsection (3) of this section;

6 2. Has been charged with a Class A, B, or C felony; and

7 3. Has not been charged with a violent or sexual offense or with an
8 enhanced scrutiny offense;

9 the court may order the defendant released on his or her own recognizance
10 subject to standard conditions, may impose additional nonfinancial
11 conditions as outlined in KRS 431.064, 431.518, and Section 68 of this Act,
12 or may, either on its own or by motion of the prosecutor, detain the
13 defendant until a detention hearing is held pursuant to Section 65 of this
14 Act.

15 (c) When the court is making a bail determination for a verified and eligible
16 defendant, if the defendant;

17 1. Poses a high risk; and

18 2. Has been charged with a violent or sexual offense or with an
19 enhanced scrutiny offense;

20 the court shall detain the defendant until a detention hearing is held
21 pursuant to Section 65 of this Act.

22 (8) If a verified and eligible defendant has been charged with a felony offense under
23 KRS Chapter 218A:

24 (a) In addition to any conditions outlined in paragraph (b) of this subsection,
25 the defendant may be subject to any substance abuse screening or treatment
26 recommended by pretrial services as ordered by the court;

27 (b) Pretrial services shall perform substance abuse screenings and may refer

1 *the defendant for substance abuse treatment; and*

2 *(c) A defendant's refusal to participate in the screening shall not disqualify the*
 3 *defendant from being granted pretrial release.*

4 *(9) The Supreme Court may make any procedural rules necessary to implement the*
 5 *provisions of this section*[(a) — Except as provided in paragraph (b) of this
 6 subsection, regardless of the amount of the bail set, the court shall permit the
 7 defendant a credit of one hundred dollars (\$100) per day as a payment toward the
 8 amount of the bail set for each day or portion of a day that the defendant remains in
 9 jail prior to trial. Upon the service of sufficient days in jail to have sufficient credit
 10 to satisfy the bail, the defendant shall be released from jail on the conditions
 11 specified in this section or in this chapter.

12 (b) — The provisions of paragraph (a) of this subsection shall not apply to:

13 1. — Any person convicted of, pleading guilty to, or entering an Alford plea
 14 to a felony offense under KRS Chapter 510, KRS 529.100 involving
 15 commercial sexual activity, KRS 530.020, 530.064(1)(a), 531.310, or
 16 531.320, or who is a violent offender as defined in KRS 439.3401; or

17 2. — A defendant who is found by the court to present a flight risk or to be a
 18 danger to others.

19 (c) — For purposes of this subsection, "a day or portion of a day" means any time
 20 spent in a detention facility following booking.

21 (d) — A defendant shall not earn credit pursuant to paragraph (a) of this subsection
 22 while also earning credit pursuant to KRS 534.070.

23 (6) — If a court determines that a defendant shall not be released pursuant to subsection
 24 (5) of this section, the court shall document the reasons for denying the release in a
 25 written order.

26 (7) — The jailer shall be responsible for tracking the credit earned by a defendant pursuant
 27 to subsection (5) of this section}.

1 ➔SECTION 65. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) A detention hearing shall be held within five (5) days of a verified and eligible
4 defendant being detained pursuant to Section 64 of this Act. The detention
5 hearing may be held at arraignment.

6 (2) (a) At the detention hearing, if the defendant poses:

7 1. A low or moderate risk and was detained pursuant to Section 64 of
8 this Act; or

9 2. A high risk and was detained pursuant to Section 64 of this Act but is
10 not eligible for money bail pursuant to subsection (3) of this section;
11 the court shall determine whether any nonfinancial condition, or
12 combination of conditions, outlined in KRS 431.064, 431.518, and Section
13 68 of this Act shall reasonably ensure the appearance of the defendant for
14 required court appearances and the safety of the public.

15 (b) The court shall, in determining whether there are conditions of release that
16 will reasonably ensure the appearance of the defendant for required court
17 appearances and the safety of the public, consider the following:

18 1. Whether the offense involves violence, obstruction of public
19 administration under KRS Chapter 519, or interference with judicial
20 administration under KRS Chapter 524; and

21 2. The history and characteristics of the defendant, including:

22 a. The defendant's character, physical and mental condition,
23 family ties, employment, financial resources, length of residence
24 in the community, community ties, past conduct, history relating
25 to drug or alcohol abuse, criminal history, and record
26 concerning appearance at court proceedings;

27 b. Whether, at the time of the current offense or arrest, the

1 defendant was on probation, on parole, on supervised release, or
2 on other release pending trial, sentencing, appeal, or completion
3 of sentence for an offense under local, state, or federal law; and
4 c. The nature and seriousness of the danger to any person or the
5 community that would be posed by the defendant's release.

6 (c) There shall be a rebuttable presumption that no condition or combination
7 of conditions of release will reasonably ensure the safety of the public if the
8 court finds by probable cause that the defendant:

- 9 1. Committed a violent or sexual offense while armed with a deadly
10 weapon or dangerous instrument;
- 11 2. Committed a violent or sexual offense and has previously been
12 convicted of a violent or sexual offense which was committed while on
13 release pending trial for a local, state, or federal offense;
- 14 3. Committed a violent or sexual offense while on release pending trial
15 for a local, state, or federal offense;
- 16 4. Committed two (2) or more violent or sexual offenses in separate
17 incidents that are joined in the case before the court; or
- 18 5. Committed a violent or sexual offense in which the victim sustained a
19 physical injury.

20 (d) After considering the information outlined in paragraph (b) of this
21 subsection and the existence, if any, of a rebuttable presumption under
22 paragraph (c) of this subsection, if the court finds by clear and convincing
23 evidence that no condition, or combination of conditions, outlined in KRS
24 431.064, 431.518, and Section 68 of this Act shall reasonably ensure the
25 appearance of the defendant for required court appearances and the safety
26 of the public, the court shall order the defendant detained before trial. If the
27 court orders the defendant detained before trial, the court shall make

1 written findings of fact and a written statement for the reasons for the
2 detention.

3 (3) (a) At the detention hearing, if the defendant:

4 1. Poses a high risk and was detained pursuant to Section 64 of this Act;

5 2. Poses a risk of failing to appear for required court appearances;

6 3. Does not pose a danger to the public if released; and

7 4. Has not been charged with a violent or sexual offense;

8 the court may impose money bail in addition to any conditions outlined in
9 KRS 431.064, 431.518, and Section 68 of this Act for the sole purpose of
10 reasonably ensuring the appearance of the defendant for required court
11 appearances. The court shall not impose money bail to ensure the
12 protection or the safety of the community, to ensure that the defendant will
13 not obstruct or attempt to obstruct the criminal justice process, or for the
14 purpose of preventing the release of the defendant. If imposed, the amount
15 of money bail shall be set in accordance with Section 69 of this Act.

16 (b) In considering whether to impose money bail under paragraph (a) of this
17 subsection, the court may upon its own motion, or shall upon the motion of
18 the Commonwealth, conduct an inquiry into the source of the property to be
19 designated for potential forfeiture or offered as collateral to secure a bond,
20 and shall decline to accept the designation or the use as collateral of
21 property that, because of its source, will not reasonably ensure the
22 appearance of the defendant at required court appearances.

23 (4) At the detention hearing, the defendant shall:

24 (a) Have the right to be represented by counsel and, if financially unable to
25 obtain adequate representation, to have counsel appointed; and

26 (b) Be afforded an opportunity to testify. However, the defendant's testimony
27 shall not be admissible on the issue of guilt in any other judicial

1 proceedings, except for those proceedings under KRS 520.070 and 520.080,
 2 in revocation hearings, in perjury proceedings, and for the purpose of
 3 impeachment in any subsequent proceedings.

4 (5) After the court has determined pursuant to this section to either detain or release
 5 a verified and eligible defendant prior to trial, the determination may be reviewed
 6 at any time before trial by the court either upon its own motion or upon motion of
 7 either party if:

8 (a) The court finds that information exists that was not known to the movant at
 9 the time of the determination and that has a material bearing on the issue
 10 of whether there are conditions of release that will reasonably ensure the
 11 appearance of the defendant for required court appearances or the safety of
 12 the public; or

13 (b) Based on the Commonwealth's motion, the court finds probable cause that
 14 the defendant has failed to comply with the conditions of release. The court
 15 may either summon the defendant to appear at a hearing or issue a warrant
 16 for the defendant's arrest. If a defendant is arrested pursuant to this
 17 paragraph, a hearing shall be held within five (5) days of arrest.

18 (6) Nothing in this section shall be construed as modifying or limiting the verified
 19 and eligible defendant's presumption of innocence.

20 ➔Section 66. KRS 27A.360 is amended to read as follows:

21 The court disposition level of the system shall consist of at least the following
 22 information as relates to bond and pretrial release:

23 (1) Whether or not the defendant was released on bail or pretrial release;

24 (2) If the defendant is released on money bail under Section 65 of this Act:

25 (a) The amount of the bail;

26 (b) Whether the bail was cash, property, a percentage of cash bail, secured,
 27 unsecured, or otherwise;

- 1 (c) Whether the conditions of bail were satisfied; and
- 2 (d) Whether or not the bail was returned, forfeited, credited to the public advocate
- 3 or otherwise; ***and***
- 4 (3) If released on any other form of pretrial release:
- 5 (a) Whether or not released on own recognizance;
- 6 (b) Whether release was upon conditions, if so what conditions; and
- 7 (c) Whether the conditions of release were satisfied.

8 ➔Section 67. KRS 222.204 is amended to read as follows:

- 9 (1) A person who has been arrested and placed in jail prior to trial for violation of KRS
- 10 222.202 and has not had two (2) prior convictions in the previous twelve (12)
- 11 months for violation of KRS 222.202 shall be released~~[as set forth by the Supreme~~
- 12 ~~Court Rule of Criminal Procedure uniform schedule of bail]~~:

- 13 (a) To an adult who is willing to accept responsibility for the defendant through a
- 14 signature verification on a form determined by the Administrative Office of
- 15 the Courts;
- 16 (b) If ***eligible for money bail under Section 65 of this Act***, he pays the requisite
- 17 amount of bail on a bail schedule issued by the court;
- 18 (c) At such time as he is able to safely care for himself but in no event shall he be
- 19 detained for more than eight (8) hours following his arrest;
- 20 (d) If he is ordered released by a court of competent jurisdiction; or
- 21 (e) Unless such person's release is precluded by other provisions of law.

- 22 (2) The jail or facility authorized by county or city ordinance agreeing to care for the
- 23 person releasing the defendant shall be considered as acting in good faith and shall
- 24 not be liable for subsequent acts of the defendant upon release.

25 ➔Section 68. KRS 431.520 is amended to read as follows:

- 26 ***Except as provided in Sections 64 and 65 of this Act***, any person charged with an offense
- 27 shall be ordered released by a court of competent jurisdiction pending trial on his

1 personal recognizance ***and*** ~~for upon the execution of an unsecured bail bond in an amount~~
2 ~~set by the court or as fixed by the Supreme Court as provided by KRS 431.540, unless the~~
3 ~~court determines in the exercise of its discretion that such a release will not reasonably~~
4 ~~assure the appearance of the person as required, or the court determines the person is a~~
5 ~~flight risk or a danger to others. When such a determination is made,]the court ***may***[shall,~~
6 ~~either in lieu of or in addition to the above methods of release,] impose any of the~~
7 following conditions of release:

- 8 (1) Place the person in the custody of a designated person or organization agreeing to
9 supervise him;
- 10 (2) Place restrictions on the travel, association, or place of abode of the person during
11 the period of release;
- 12 (3) ***For those eligible for money bail under Section 65 of this Act,*** require the
13 execution of a bail bond:
 - 14 (a) With sufficient personal surety or sureties acceptable to the court; in
15 determining the sufficiency of such surety or sureties, the court shall consider
16 his character, his place of residence, his relationship with the defendant, and
17 his financial and employment circumstances;~~or]~~
 - 18 (b) With the ten percent (10%) deposit as provided in KRS 431.530; ~~provided~~
19 ~~that if the defendant is permitted to earn credit toward bail pursuant to KRS~~
20 ~~431.066, that credit shall be applied to the ten percent (10%) deposit;]or~~
 - 21 (c) With the deposit of cash equal to the amount of the bond or in lieu thereof
22 acceptable security as provided in KRS 431.535;
- 23 (4) If the person's record indicates a history of controlled substance or alcohol abuse:
 - 24 (a) Order the person to submit to periodic testing for use of controlled substances
25 or alcohol and pay a reasonable fee, not to exceed the actual cost of the test
26 and analysis, as determined by the court with the fee to be collected by the
27 circuit clerk, held in an agency account, and disbursed, on court order, solely

- 1 to the agency or agencies responsible for testing and analysis as compensation
2 for the cost of the testing and analysis performed under this subsection. If the
3 person is declared indigent, the testing fee may be waived by the court. The
4 Administrative Office of the Courts shall establish pilot projects to implement
5 the provisions of this subsection; or
- 6 (b) Order the person to use an alcohol monitoring device, as defined in KRS
7 431.068. All costs associated with the device, including administrative and
8 operating costs, shall be paid by the defendant. If the court determines that the
9 defendant is indigent, and a person, county, or other organization has not
10 agreed to pay the costs for the defendant in an attempt to reduce incarceration
11 expenses and increase public safety, the court shall consider other conditions
12 of release provided for in this section;
- 13 (5) (a) During all or part of a person's period of release pursuant to this section, order
14 the person to participate in a global positioning monitoring system program
15 operated by a county pursuant to KRS 67.372 and 67.374 under the same
16 terms and conditions provided under KRS 431.517.
- 17 (b) If the person is charged with a sex crime as defined in KRS 17.500, consider
18 requiring that he or she be monitored electronically, and shall consider
19 requiring the person be subject to home incarceration;
- 20 (6) Impose any ***nonfinancial conditions***~~[other condition]~~ deemed reasonably necessary
21 to assure appearance as required, including a condition requiring that the person
22 return to custody after specified hours;
- 23 (7) A court authorizing the release of a person pursuant to this section shall cause the
24 issuance of an appropriate order containing a statement of the conditions imposed,
25 if any, shall cause such person to be informed of the penalties applicable to
26 violations of the conditions of his release, and shall cause him to be informed that a
27 warrant for his arrest will be issued immediately upon any such violation;

1 (8) A person for whom conditions of release are imposed and who after twenty-four
2 (24) hours from the time of the imposition of said conditions continues to be
3 detained as a result of his inability to meet the conditions of release shall, upon
4 written application or upon the court's own motion, be entitled to have the
5 conditions reviewed by the court which imposed them. A person who is ordered
6 released on a condition which requires that he return to custody after specified hours
7 shall, upon written application or upon the court's own motion, be entitled to a
8 review by the court which imposed the condition; or

9 (9) If at any time following release of a defendant and before he is required to appear
10 for trial, the court is advised of a material change in the defendant's circumstances
11 or that he has not complied with all conditions imposed upon his release, the court
12 having jurisdiction may:

13 (a) Order the arrest of the defendant;

14 (b) Enter an order requiring the defendant, his surety or sureties to appear and
15 show cause why the bail bond should not be forfeited or the conditions of his
16 release be changed; or

17 (c) Both.

18 A copy of said order shall be served upon the defendant, his surety or sureties. If the
19 defendant fails to appear before the court as ordered or if, after hearing, the court
20 finds the conditions of release have not been complied with, the court may change
21 the conditions imposed or forfeit the bail bond or any portion thereof and enter a
22 judgment for the Commonwealth against the defendant and his surety or sureties for
23 the amount of the bail bond or any portion thereof and cost of the proceedings.

24 ➔Section 69. KRS 431.525 is amended to read as follows:

25 (1) **For those eligible for money bail under Section 65 of this Act,** the amount of the
26 bail shall be:

27 (a) Sufficient to insure compliance with the conditions of release set by the court;

- 1 (b) Not oppressive;
- 2 (c) Commensurate with the nature of the offense charged;
- 3 (d) Considerate of the past criminal acts and the reasonably anticipated conduct of
- 4 the defendant if released; and
- 5 (e) Considerate of the financial ability of the defendant.
- 6 (2) When a person is eligible for money bail under Section 65 of this Act and is
- 7 charged with an offense punishable by fine only, the amount of the bail bond set
- 8 shall not exceed the amount of the maximum penalty and costs.
- 9 (3) When a person is eligible for money bail under Section 65 of this Act and has been
- 10 convicted of an offense and only a fine has been imposed, the amount of the bail
- 11 shall not exceed the amount of the fine.
- 12 (4) When a person is eligible for money bail under Section 65 of this Act and has been
- 13 charged with one (1) or more misdemeanors, the amount of the bail for all charges
- 14 shall be encompassed by a single amount of bail that shall not exceed the amount of
- 15 the fine and court costs for the one (1) highest misdemeanor charged. This
- 16 subsection shall apply only to misdemeanor offenses not involving physical injury
- 17 or sexual contact.
- 18 (5) When a person is eligible for money bail under Section 65 of this Act and has been
- 19 convicted of a misdemeanor offense and a sentence of jail, probation, conditional
- 20 discharge, or sentence other than a fine only has been imposed, the amount of bail
- 21 for release on appeal shall not exceed double the amount of the maximum fine that
- 22 could have been imposed for the one (1) highest misdemeanor offense for which the
- 23 person was convicted. This subsection shall apply only to misdemeanors not
- 24 involving physical injury or sexual contact.
- 25 (6) ~~{The provisions of this section shall not apply to a defendant who is found by the~~
- 26 ~~court to present a flight risk or to be a danger to others.~~
- 27 (7) ~~If a court determines that a defendant shall not be released pursuant to subsection~~

1 ~~(6) of this section, the court shall document the reasons for denying the release in a~~
2 ~~written order.~~

3 ~~(8)~~—]The Administrative Office of the Courts shall establish pilot projects to implement
4 controlled substance or alcohol abuse testing as specified under this subsection. If
5 the person's record indicates a history of controlled substance or alcohol abuse, the
6 court may order the person to submit to periodic testing for use of controlled
7 substances or alcohol and to pay a reasonable fee, not to exceed the actual cost of
8 the test and analysis, as determined by the court, with the fee to be collected by the
9 circuit clerk, held in an agency account, and disbursed, on court order, solely to the
10 agency or agencies responsible for testing and analysis as compensation for the cost
11 of the testing and analysis performed under this subsection. If the person is declared
12 indigent, the testing fee may be waived by the court. If the court finds the conditions
13 of release have not been complied with, the court may change the conditions
14 imposed or forfeit the bail bond or any portion thereof and enter a judgment for the
15 Commonwealth against the person and his surety or sureties for the amount of the
16 bail bond or any portion thereof and the cost of the proceedings.

17 ➔Section 70. KRS 431.530 is amended to read as follows:

18 (1) Any person who has been permitted to execute a bail bond in accordance with KRS
19 431.520(3)(b) shall deposit with the clerk of the court before which the action is
20 pending a sum of money equal to ten percent (10%) of the bail, but in no event shall
21 such deposit be less than ten dollars (\$10)~~—unless the defendant earned full credit~~
22 ~~toward the applicable amount of bail pursuant to KRS 431.066, in which case the~~
23 ~~defendant shall not be required to make a deposit with the clerk of the court].~~

24 (2) Upon depositing said sum the defendant shall be released from custody subject to
25 all conditions of release imposed by the court.

26 (3) Except as provided in subsection (5) of this section, if the conditions of release have
27 been performed and the defendant has been discharged from all obligations in the

1 action the clerk of the court shall return to the defendant, unless the court orders
2 otherwise, ninety percent (90%) of the sum deposited and shall retain as bail costs
3 ten percent (10%) of the amount deposited; provided, however, in no event shall the
4 amount retained by the clerk as bail costs be less than five dollars (\$5). It is further
5 provided that the court shall order the clerk of court to pay into the public advocate
6 special account any amount of the sum deposited by the defendant, in excess of bail
7 costs, which in its sound discretion represents a reasonable fee for any public
8 advocate legal or investigative services provided for the defendant under KRS
9 Chapter 31, but in no event shall the amount so paid to the public advocate special
10 account as public advocate legal and investigative fees be less than five dollars (\$5)
11 per case. At the request of the defendant the court may order the amount repayable
12 to defendant from such deposit to be paid to defendant's attorney of record.

13 (4) Except as provided in subsection (5) of this section, if a final judgment for a fine
14 and court costs or either is entered in the prosecution of an action in which a deposit
15 has been made in accordance with subsection (1) of this section, the balance of such
16 deposit, after deduction of bail costs and public advocate fees as provided for in
17 subsection (3) of this section, shall be applied to the satisfaction of the judgment.

18 (5) If the defendant has performed all conditions of release and if the defendant is
19 found not guilty of the offense for which bail was posted, or if all charges against
20 him relating to the offense for which bail was posted are dropped or dismissed, then
21 all bail money deposited by the defendant or by another person on his behalf shall
22 be returned to him with no deductions therefrom as provided in subsection (3) or (4)
23 of this section.

24 ➔Section 71. KRS 431.540 is amended to read as follows:

25 The Supreme Court may by rule or order prescribe a uniform schedule of amounts of bail
26 in designated nonviolent Class D felonies, misdemeanors, and violations *for those*
27 *defendants eligible for money bail under Section 65 of this Act;*

1 (1) Except as provided in subsection (2) of this section, when the amount of bail is
2 fixed by such rule or order of the Supreme Court for a particular offense, the clerk
3 of the court or other public officers so authorized by the court's order shall accept
4 cash bail in the prescribed amount or the deposit authorized by KRS 431.530 and
5 release the defendant to appear in accordance with the conditions of the bail bond.
6 A receipt shall be delivered to the defendant for the bail so taken and within a
7 reasonable time such bail shall be deposited with the clerk of the court having
8 jurisdiction of the offense.

9 (2) A court may, in the exercise of its reasonable discretion, refuse to set bail in the
10 amount prescribed by such rule or order of the Supreme Court, but, in so doing, the
11 court must set forth in writing its reasons for such refusal.

12 ➔Section 72. KRS 452.260 is amended to read as follows:

13 If the defendant is in custody, the order for the change of venue shall be accompanied by
14 an order for his removal by the sheriff or jailer of the county in which he is held, with
15 such sufficient guard as the court directs, and for his delivery to the jailer of the county
16 where the trial is to be held. If the defendant is under recognizance or bond for his
17 appearance, he shall ***be ordered to appear before***~~[, before the order is granted, give~~
18 ~~sufficient bail for his appearance at] the proper court~~~~[, or be surrendered into the custody~~
19 ~~of the proper officer].~~

20 ➔Section 73. The following KRS section is repealed:

21 431.021 Guaranteed arrest bond certificate of surety company to be accepted in lieu of
22 cash bail in traffic cases.

23 ➔Section 74. KRS 431.510 is amended to read as follows:

24 (1) It shall be unlawful for any person to engage in the business of bail bondsman as
25 defined in subsection (3) of this section, or to otherwise for compensation or other
26 consideration:

27 (a) Furnish bail or funds or property to serve as bail; or

1 (b) Make bonds or enter into undertakings as surety;
2 for the appearance of persons charged with any criminal offense or violation of law
3 or ordinance punishable by fine, imprisonment or death, before any of the courts of
4 this state, including city courts, or to secure the payment of fines imposed and of
5 costs assessed by such courts upon a final disposition.

6 (2) Nothing contained herein shall serve to release any bail bondsman heretofore
7 licensed by this state from the obligation of undischarged bail bond liability existing
8 on June 19, 1976.

9 (3) "Bail bondsman" shall mean any person, partnership, or corporation engaged for
10 profit in the business of furnishing bail, making bonds or entering into undertakings,
11 as surety, for the appearance of persons charged with any criminal offense or
12 violation of law or ordinance punishable by fine, imprisonment, or death, before any
13 of the courts of this state, or securing the payment of fines imposed and of costs
14 assessed by such courts upon final disposition thereof, and the business of a bail
15 bondsman shall be limited to the acts, transactions, and undertakings described in
16 this subsection and to no other.

17 (4) KRS 431.510 to 431.550 shall not be construed to ~~limit or repeal KRS 431.021 or~~
18 ~~to~~ prevent licensed insurers providing security required by Subtitle 39 of KRS
19 Chapter 304 and nonprofit associations from posting or causing to be posted by
20 licensed insurers security or acting as surety for their insureds or members for an
21 offense arising from the operation of a motor vehicle, provided that such posting of
22 security or acting as surety is merely incidental to the terms and conditions of an
23 insurance contract or a membership agreement and provided further that no separate
24 premium or charge therefor is required from the insureds or members.

25 ➔Section 75. Sections 64 to 74 of this Act take effect January 1, 2019.

26 ➔Section 76. KRS 15.718 is amended to read as follows:

27 (1) The Attorney General shall provide initial training courses and, at least once every

1 two (2) years, continuing education courses for Commonwealth's attorneys and
 2 county attorneys and their staffs concerning:

3 (a) The dynamics of domestic violence, child physical and sexual abuse, rape,
 4 effects of crime on adult and child victims, legal remedies for protection,
 5 lethality and risk issues, profiles of offenders, model protocols for addressing
 6 domestic violence, child abuse, rape, available community resources and
 7 victims services, and reporting requirements;~~and~~

8 (b) The appropriate response to victims of human trafficking, including but not
 9 limited to screening for victims of human trafficking, federal and state
 10 legislation on human trafficking, appropriate services and referrals for victims
 11 of human trafficking, working with interpreters, and agency protocol for
 12 handling child trafficking cases; and

13 (c) *Victims' statutory rights, including but not limited to the use of victim*
 14 *impact statements at sentencing.*

15 (2) The training shall be developed in consultation with prosecutors, victims services,
 16 victim advocacy, and mental health professionals with an expertise in domestic
 17 violence, child abuse, human trafficking, and rape.

18 (3) Each Commonwealth's Attorney, assistant Commonwealth's Attorney, county
 19 attorney, and assistant county attorney shall successfully complete the training.

20 ➔Section 77. KRS 21A.170 is amended to read as follows:

21 The Supreme Court shall provide, at least once every two (2) years, in-service training
 22 programs for Circuit Judges, District Judges, and domestic relations and trial
 23 commissioners in:

24 (1) Child development, the dynamics of physical and sexual abuse, the impact of
 25 violence on child development, the treatment of offenders, and related issues;

26 (2) Dynamics of domestic violence, effects of domestic violence on adult and child
 27 victims, legal remedies for protection, lethality and risk issues, model protocols for

1 addressing domestic violence, available community resources and victims services,
2 and reporting requirements;~~[- and]~~

3 (3) Dynamics of crimes against the elderly, including but not limited to elder abuse,
4 neglect, and exploitation; the effects of these crimes on the elderly, institutions in
5 which they may reside, and their families; legal remedies for protection; lethality
6 and risk issues; financial implications; model protocols for addressing elder abuse,
7 neglect, and exploitation and other crimes against the elderly; available community
8 resources and victims services; and reporting requirements; **and**

9 **(4) Victims' statutory rights, including but not limited to the use of victim impact**
10 **statements at sentencing.**

11 Each Circuit Judge, District Judge, and trial and domestic relations commissioner shall
12 successfully complete the training prescribed by the Supreme Court by rule.

13 ➔Section 78. KRS 421.570 is amended to read as follows:

14 (1) For the purposes of this section and KRS 421.575, "victim advocate" means an
15 individual at least eighteen (18) years of age and of good moral character, who is
16 employed by, or serves as a volunteer for, a public or private agency, organization,
17 or official to counsel and assist crime victims as defined in KRS 421.500, and
18 includes a victim advocate employed by a Commonwealth's attorney pursuant to
19 KRS 15.760 and a victim advocate employed by a county attorney pursuant to KRS
20 69.350.

21 (2) Each victim advocate shall complete training which shall include information
22 concerning:

23 **(a)** The difference between advocacy and the practice of law;~~[- and]~~

24 **(b)** The appropriate intervention with crime victims, including victims of
25 domestic violence, child physical and sexual abuse, human trafficking, and
26 rape; **and**

27 **(c) Victims' statutory rights, including but not limited to the use of victim**

1 impact statements and the submission of claims through the Kentucky
2 Claims Commission.

3 (3) A victim advocate shall not engage in the practice of law as defined in KRS
4 524.130.

5 ➔Section 79. KRS 15A.075 is amended to read as follows:

6 (1) The Criminal Justice Council is hereby created within the Justice and Public Safety
7 Cabinet.

8 (2) The council shall:

9 (a) Oversee the implementation of the legislative and administrative changes
10 contained in this Act;

11 (b) Collect and review performance measure data and recommend any
12 additional performance measures needed to track the outcomes of the
13 changes contained in this Act;

14 (c) Prepare and submit an annual report no later than the first day of the
15 second full week of each regular session to the General Assembly, the
16 Governor, and the Chief Justice of the Kentucky Supreme Court. The report
17 shall include an update on the implementation of the changes contained in
18 this Act, a summary of the performance measure findings to date
19 highlighting the success of the changes contained in this Act and
20 improvements needed to ensure full implementation of the changes
21 contained in this Act, and a summary of fiscal impact of the legislative
22 changes contained in this Act. The report may also include
23 recommendations to the General Assembly on future legislation and
24 administrative policy or practice changes to enhance public safety and
25 control corrections costs; and

26 (d) Undertake such research and other activities as may be authorized or directed
27 by

- 1 ~~(a)~~—}the secretary of the Justice and Public Safety Cabinet~~[-]~~ or {
- 2 ~~(b)~~—}the General Assembly.
- 3 (3) The membership of the council shall consist of:
- 4 (a) The secretary of the Justice and Public Safety Cabinet, ex officio;
- 5 (b) The Attorney General or his or her designee;
- 6 (c) The **chair of the Parole Board, ex officio;**
- 7 ~~(d)~~ **The** chair of the Judiciary Committee of the House of Representatives,
- 8 nonvoting ex officio;
- 9 ~~(e)~~~~(d)~~ The chair of the Judiciary Committee of the Senate, nonvoting ex
- 10 officio;
- 11 ~~(f)~~~~(e)~~ The director of the Administrative Office of the Courts, ex officio;
- 12 ~~(g)~~~~(f)~~ The public advocate, ex officio;
- 13 ~~(h)~~~~(g)~~ The president of the Kentucky Association of Criminal Defense Lawyers
- 14 or his or her designee;
- 15 ~~(i)~~~~(h)~~ The commissioner of the Department for Behavioral Health,
- 16 Developmental and Intellectual Disabilities, ex officio;
- 17 ~~(j)~~~~(i)~~~~The commissioner of the Department of Kentucky State Police or his or her~~
- 18 designee;
- 19 ~~(j)~~ The commissioner of the Department of Corrections, ex officio; **and**
- 20 (k) ~~{The commissioner of the Department of Juvenile Justice, ex officio; and~~
- 21 ~~(k)~~ **Seven (7)**~~{Six (6)}~~ at-large members~~{appointed by the Governor}~~, as follows:
- 22 1. One (1) District Judge and one (1) Circuit Judge nominated by the Chief
- 23 Justice of the Kentucky Supreme Court;
- 24 2. One (1) member representing law enforcement **appointed by the**
- 25 **Governor;**
- 26 3. One (1) member of the County Attorneys' Association **appointed by the**
- 27 **Governor;**

- 1 4. One (1) member of the Commonwealth Attorneys' Association
2 *appointed by the Governor;* ~~and~~
- 3 5. One (1) member representing community-based organizations, whether
4 for-profit or nonprofit, with experience in programs such as substance
5 abuse prevention and treatment, case management, mental health, or
6 counseling; *and*
- 7 *6. One (1) member representing the victims' community appointed by the*
8 *Attorney General.*
- 9 (4) The *secretary of the Justice and Public Safety Cabinet* ~~chairs of the House and~~
10 ~~Senate Judiciary Committees~~ shall serve as *chair* ~~co-chairs~~.
- 11 (5) At-large members shall be appointed by August 1, *2018*~~[2017]~~, and shall serve a
12 term of two (2) years, and may be reappointed.
- 13 (6) Each ex officio member, except for legislative members, may designate a proxy by
14 written notice to the council prior to call of order of each meeting, and the proxy
15 shall be entitled to participate as a full voting member.
- 16 (7) Each member of the council shall have one (1) vote. Members of the council shall
17 serve without compensation but shall be reimbursed for their expenses actually and
18 necessarily incurred in the performance of their duties. The council shall meet at
19 least quarterly. Meetings shall be held at the call of the chair, or upon the written
20 request of two (2) members to the chair.
- 21 (8) A simple majority of the members of the council shall constitute a quorum for the
22 conduct of business at a meeting.
- 23 (9) The council is authorized to establish committees and appoint additional persons
24 who may not be members of the council, as necessary to effectuate its purposes.
- 25 (10) The council's administrative functions shall be performed by the ~~executive director~~
26 ~~of the Office of Legislative and Intergovernmental Services, appointed by the~~
27 ~~secretary of the~~ Justice and Public Safety Cabinet and supported by the

1 administrative, clerical, and other staff as allowed by budgetary limitations and as
 2 needed to fulfill the council's role and mission and to coordinate its activities.

3 ➔Section 80. KRS 196.031 is amended to read as follows:

4 (1) The cabinet shall employ the personnel and operate and maintain data collection
 5 and processing systems necessary to comply with the provisions of this section.

6 (2) The cabinet shall annually on July 1 of each year report to the Governor, the
 7 Legislative Research Commission,~~—and—~~the Kentucky State Corrections
 8 Commission, **and the Criminal Justice Council** on:

9 (a) The placement of prisoners within the Commonwealth's correctional system
 10 by institution, whether imprisoned in a state prison or other institution,
 11 including county jails, on probation, paroled, housed in halfway houses,
 12 housed in reentry centers, sentenced to community service or otherwise;

13 (b) **The number**~~[Numbers]~~ of prisoners by type of offense;

14 (c) **The number of prisoners by type of admission;**

15 **(d) The number**~~[Numbers]~~ of prisoners by number and type of prior convictions;

16 **(e)**~~(d)~~ **The number**~~[Numbers]~~ of prisoners paroled by type of offense and by
 17 length of time served;

18 **(f)**~~(e)~~ **The number**~~[Numbers]~~ of prisoners released through shock probation
 19 by type of offense and by length of time served;

20 **(g)**~~(f)~~ **The number**~~[Numbers]~~ of prisoners serving their full sentence by type
 21 of offense;

22 **(h) The average sentence length for newly admitted prisoners by offense type**
 23 **and prior criminal history;**

24 **(i) The average sentence length for prisoners admitted from community**
 25 **supervision due to a revocation by offense type and prior criminal history;**

26 **(j) The average length of stay for newly admitted prisoners by offense type and**
 27 **prior criminal history;**

1 (k) The average length of stay for prisoners admitted from community
 2 supervision due to a revocation by offense type and prior criminal history;

3 (l) The number and percentage of prisoners granted a parole hearing upon
 4 parole eligibility date;

5 (m) The percentage of parole-eligible prisoners released on parole following a
 6 hearing of the Parole Board;

7 (n) The average length of time between approval of parole and release from
 8 custody for prisoners granted release on parole;

9 (o) The percentage of felony offenders on parole or some form of post-release
 10 supervision who successfully complete the full term of their supervision
 11 term;

12 ~~(p)(g)~~ The percentage of felony offenders on parole or some form of post-
 13 release supervision who are participating or completing treatment consistent
 14 with assessment results, in prison and in the community;

15 ~~(q)(h)~~ The percentage of felony offenders whose reassessment results
 16 demonstrate reductions in criminal risk factors;

17 ~~(r)(i)~~ The percentage of programs that demonstrate their effectiveness in
 18 reducing recidivism;

19 ~~(s)(j)~~ The percentage of felony offenders on parole or some form of post-
 20 release supervision, by supervision type, who:

- 21 1. Are employed or in school within thirty (30) days, six (6) months, and
 22 one (1) year of the start of supervision;
- 23 2. Have had part-time employment for a minimum of six (6) months, and
 24 the percentage of offenders who have had full-time employment for a
 25 minimum of six (6) months;
- 26 3. Have housing upon release from incarceration;
- 27 4. Had stable housing for at least six (6) months; and

1 5. Are arrested, convicted, or incarcerated within six (6) months, one (1)
2 year, and three (3) years;

3 *(t) The percentage of felony offenders released from prison on his or her*
4 *expiration of sentence, by offense type who are arrested, convicted, or*
5 *incarcerated within six (6) months, one (1) year, and three (3) years;*

6 *(u)*~~(k)~~ The percentage of admissions to prison by offenders under supervision
7 at the time of admission, *by supervision type*, including information regarding
8 whether the violations were criminal or technical, *the number of violations*
9 *preceding revocation, and information regarding any new convictions*
10 *resulting in admission*; and

11 *(v)*~~(4)~~ Any other data that provides information on state-funded crime
12 reduction and recidivism reduction efforts, including caseload sizes by risk
13 level, participation in treatment and intervention programming, public safety
14 outcomes, and cost effectiveness.

15 (3) The cabinet shall annually report to the Governor and to the Legislative Research
16 Commission on:

17 (a) *The number*~~[Numbers]~~ and *type*~~[types]~~ of prison beds necessary to meet
18 current population needs and six (6) year projections of those needs;

19 (b) Current personnel needs of the cabinet and five (5) year projections of the
20 needs; and

21 (c) A six (6) year projection of needed capital construction, program
22 development, and anticipated requests for appropriations.

23 ➔SECTION 81. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO
24 READ AS FOLLOWS:

25 *(1) Beginning July 1, 2019, the cabinet shall allocate fifty percent (50%) of the state*
26 *county per diem for every bed saved during the preceding fiscal year due to a*
27 *reduction in a judicial district's average daily population of Class D felony*

1 offenders. The cabinet shall use the 2016 average daily population of sentenced
 2 Class D felony offenders, with the exception of individuals sentenced for Class D
 3 trafficking offenses, by judicial district as a baseline for beds saved. The allocated
 4 moneys shall be deposited in the fiscal incentive grant fund established in
 5 subsection (2) of this section. As used in this subsection, "bed saved" means a
 6 full year, three hundred sixty-five (365) days, of bed nights averted.

7 (2) (a) The fiscal incentive grant fund is created as a restricted fund. The restricted
 8 fund shall consist of funds deposited pursuant to subsection (1) of this
 9 section and shall be appropriated for the purposes set forth in paragraph (c)
 10 of this subsection. The department shall administer the fund.

11 (b) Notwithstanding KRS 45.229, any moneys in the fund shall not lapse but
 12 shall be carried forward to the next fiscal year. In addition, any interest
 13 earned on moneys in the fund shall become a part of the fund and shall not
 14 lapse.

15 (c) All funds in the fiscal incentive grant fund shall be appropriated for the
 16 fiscal incentive grant program as prescribed by Section 82 of this Act and
 17 shall be used to establish and sustain community-based supervision and
 18 treatment programs that provide alternatives to incarceration, including but
 19 not limited to funding for:

20 1. Assessment and treatment provided by community mental health
 21 centers or another approved treatment provider;

22 2. Supervision provided by department personnel, another approved
 23 provider, or pretrial diversion through Pretrial Services; and

24 3. Treatment and transportation vouchers.

25 ➔SECTION 82. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO
 26 READ AS FOLLOWS:

27 (1) It is the intent of the Commonwealth to maintain and improve public safety

1 through the use of evidence-based treatment programs and practices at the local
2 level.

3 (2) The cabinet shall develop a fiscal incentive grant program to fund community
4 programming, treatment, and supervision at the local level. Moneys from the
5 fiscal incentive grant fund established pursuant to Section 81 of this Act shall be
6 distributed in the form of renewable grants to be awarded to a judicial district in
7 proportion to the bed savings realized by the judicial district as calculated
8 pursuant to subsection (1) of Section 81 of this Act.

9 (3) The cabinet shall establish a fiscal incentive grant program application and
10 award process for moneys from the fiscal incentive grant fund established
11 pursuant to Section 81 of this Act that includes but is not limited to:

12 (a) The requirements for the grant application, including:

13 1. The identification of the local committee that will be responsible for
14 the grant application and implementation. The committee shall consist
15 of local individuals or organizations, which may include judges,
16 county attorneys, defense attorneys, treatment providers, mental
17 health or behavioral health service providers, local officials, law
18 enforcement, and other interested persons. The local committee may
19 utilize an existing committee or may be formed for the purpose of the
20 grant application and implementation of the program;

21 2. A description of how the funding will be utilized;

22 3. A description of the region and the need the program or service is
23 intended to meet; and

24 4. A description of performance measures and the data to be collected to
25 assess the outcome and overall impact of the program or service; and

26 (b) The procedure for review of the grant applications and the award of the
27 grants, including:

- 1 1. A committee that includes subject matter experts to review the
2 applications;
- 3 2. Criteria to be utilized in approval of the grant applications, including
4 but not limited to:
- 5 a. The use of evidence-based practices in program design;
6 b. How the program reduces the use of incarceration;
7 c. How the program reduces recidivism;
8 d. How the program establishes or utilizes educational, vocational,
9 substance abuse, behavioral health, or mental health
10 intervention services, and local alternatives to incarceration;
11 e. Whether grant funds will be used to leverage existing funding
12 resources or increase access to existing resources;
13 f. Geographical distribution;
14 g. The number of defendants potentially served by the program or
15 service;
16 h. The cost of the program or service;
17 i. A plan for the sustainability of the program if grant support
18 under this section is no longer available; and
19 j. The existence of similar services in the judicial district; and
- 20 3. A process and timeline for review of applications and awarding of
21 grants.
- 22 (4) After the initial grant is disbursed, the judicial district may apply for grant
23 renewal on an annual basis. Renewal of grants shall not be guaranteed, and an
24 application shall be submitted for consideration of renewal. An application for
25 renewal shall contain the criteria detailed in subsection (3) of this section and
26 shall report the program's performance measures for the preceding fiscal year or
27 portion thereof.

- 1 (5) The Administrative Office of the Courts shall:
2 (a) Act as the fiscal agent to receive funds awarded to a judicial district; and
3 (b) Provide technical assistance to the judicial district in developing and writing
4 its grant application.
- 5 (6) The Department of Corrections shall:
6 (a) Collect and report data the judicial districts are required to report under the
7 fiscal incentive program; and
8 (b) Calculate the reductions in Class D average daily population as required
9 under subsection (1) of Section 81 of this Act.
- 10 (7) The cabinet shall report annually to the Criminal Justice Council established in
11 Section 79 of this Act on the fiscal incentive grant program established under this
12 section, including but not limited to outcomes achieved and cost savings realized
13 through reductions in the use of incarceration.

14 ➔SECTION 83. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO
15 READ AS FOLLOWS:

16 Unless reauthorized by the General Assembly, the fiscal incentive grant fund
17 established in Section 81 of this Act and the fiscal incentive grant program described in
18 Section 82 of this Act shall cease to operate on July 1, 2022. Any funds remaining in
19 the fiscal incentive grant fund as of July 1, 2022, shall be transferred to the
20 department's operating budget.