

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. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) A pilot program shall be established in the counties listed in subsection (2) of this*  
6 *section to participate in a behavioral health conditional dismissal program. The*  
7 *pilot program shall begin October 1, 2022, and shall last for four (4) years unless*  
8 *extended or limited by the General Assembly.*

9 *(2) The following counties shall participate in the pilot program:*

10 *(a) Boone;*

11 *(b) Boyd;*

12 *(c) Daviess;*

13 *(d) Hopkins;*

14 *(e) Johnson;*

15 *(f) Knox;*

16 *(g) Letcher;*

17 *(h) McCracken;*

18 *(i) Marion;*

19 *(j) Oldham; and*

20 *(k) Pulaski.*

21 *(3) Each participating county shall have access to:*

22 *(a) Medication assisted treatment;*

23 *(b) Recovery services as defined under Section 2 of this Act; and*

24 *(c) Educational and vocational facilities sufficient to provide the training and*  
25 *assistance required under Section 9 of this Act.*

26 *(4) (a) Every behavioral health treatment program provider in the pilot program*  
27 *shall collect and maintain data as provided in this subsection relating to*

1 program participants under their care, designed to inform the outcomes and  
2 effectiveness of the pilot program, to be submitted to the Administrative  
3 Office of the Courts;

4 (b) The data to be collected and submitted in an initial report no later than  
5 fourteen (14) days following initiation of treatment shall include the  
6 following information regarding the program participants:

7 1. Age, gender, and race or ethnicity;

8 2. Housing history;

9 3. Educational history;

10 4. Employment history;

11 5. Past involvement in addiction recovery and treatment for a substance  
12 use disorder;

13 6. Past treatment for a mental health disorder;

14 7. Criminal history;

15 8. The number of individuals participating in the behavioral health  
16 conditional dismissal program with that provider;

17 9. The number of individuals who remain in compliance with the terms  
18 and conditions of the treatment program; and

19 10. The number of individuals who have been discharged from the  
20 program due to an inability or unwillingness to meet the terms and  
21 conditions of the treatment program, including the specific reason for  
22 the discharge;

23 (c) A second report shall be filed no later than twenty-eight (28) days after  
24 filing the initial report and shall include:

25 1. The progression of the program participants identified in paragraph  
26 (b) of this subsection;

27 2. The current number of individuals participating in the behavioral

- 1                   health conditional dismissal program with that provider;
- 2                   3. The number of individuals who remain in compliance with the terms
- 3                   and conditions of the treatment program;
- 4                   4. The number of individuals who have been discharged from the
- 5                   program due to an inability or unwillingness to meet the terms and
- 6                   conditions of the treatment program, including the specific reason for
- 7                   the discharge;
- 8                   5. For any individual discharged under subparagraph 4. of this
- 9                   paragraph, the length of time the individual participated in the
- 10                  program;
- 11                  6. The number of individuals who have been discharged from the
- 12                  program upon successful completion of the treatment program
- 13                  requirements;
- 14                  7. The number of individuals who have received medication-assisted
- 15                  treatment and the result of that treatment;
- 16                  8. The work status of individuals participating in the program; and
- 17                  9. The educational accomplishments of individuals participating in an
- 18                  educational component of the program;
- 19                  (d) Subsequent reports shall be filed on a quarterly basis relating to each
- 20                  program participant and shall include:
- 21                   1. The information required under paragraph (c) of this subsection; and
- 22                   2. The number of clinical assessments performed by the program
- 23                   provider during the reporting period; and
- 24                  (e) A final report shall be filed no later than thirty (30) days following
- 25                  discharge upon successful completion of the program requirements and
- 26                  shall include:
- 27                   1. A summary of the specific programs completed and goals attained by

1           the participant;

2           2. What continued treatment, if any, is recommended; and

3           3. Any recommended adjustments to the behavioral health conditional  
4           dismissal program that could provide greater benefit to similar  
5           participants.

6   (5) (a) The attorneys for the Commonwealth participating in the pilot program  
7   shall submit a quarterly report to the Administrative Office of the Courts  
8   that shall include:

9           1. The number of eligible defendants who were offered participation in  
10          the behavioral health conditional dismissal program but declined to  
11          participate;

12          2. The number of eligible defendants who sought to participate in the  
13          program but whose participation was not agreed to by the attorney for  
14          the Commonwealth; and

15          3. The number of victims, if there is an identified victim, who did not  
16          participate in the process; and

17   (b) If the attorney for the Commonwealth did not agree to an eligible  
18   defendant's participation in the behavioral health conditional dismissal  
19   program, he or she shall include in each quarterly report to the  
20   Administrative Office of the Courts the specific offenses charged for that  
21   defendant, and the substantial and compelling reasons, based upon  
22   delineated facts specific to the defendant, why the defendant was denied  
23   participation in the program.

24   (6) The Chief Justice of the Supreme Court shall submit an annual report to the  
25   Legislative Research Commission, the chair of the Senate Standing Committee  
26   on Judiciary, the chair of the House Standing Committee on Judiciary, and the  
27   Governor by January 31 of each year that includes the information received from

1 the attorneys for the Commonwealth and the providers for the counties  
2 participating in the behavioral health conditional dismissal program. The report  
3 shall include the information reported under subsections (4) and (5) of this  
4 section and shall also include:

5 (a) The number of defendants assessed who did not meet the eligibility  
6 requirements for the program following the clinical assessment;

7 (b) The specific offenses charged for each defendant and the classification of  
8 offenses charged;

9 (c) The percentage of defendants participating in the program who successfully  
10 completed the program;

11 (d) The percentage of defendants discharged from the program for  
12 noncompliance; and

13 (e) The percentage of defendants who are arrested, convicted, and incarcerated  
14 within six (6) months, one (1) year, and two (2) years of successful  
15 completion of the program.

16 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO  
17 READ AS FOLLOWS:

18 As used in Sections 1 to 8 of this Act:

19 (1) "Behavioral health conditional dismissal program" means a program designed  
20 to provide an eligible person who has a behavioral health disorder and who has  
21 been charged with a qualifying offense an alternative to receive treatment  
22 addressing the behavioral health disorder instead of incarceration, resulting in  
23 dismissal of the charges upon successful completion;

24 (2) "Behavioral health disorder" means a mental health disorder or substance use  
25 disorder, or both;

26 (3) "Behavioral health treatment program" means a plan, based upon a clinical  
27 assessment, that identifies and incorporates recovery services to meet the specific

- 1 treatment goals and needs of the individual served;
- 2 (4) "Clinical assessment" means an assessment that is performed by a qualified  
3 mental health professional in accordance with the most recent American Society  
4 of Addiction Medicine criteria for a substance use disorder, and the most recent  
5 edition of the American Psychiatric Association's Diagnostic and Statistical  
6 Manual of Mental Disorders for a mental health disorder;
- 7 (5) "Eligible applicant" or "eligible person" means an individual:
- 8 (a) Who has completed a clinical assessment and been referred to care; and  
9 (b) Who meets the requirements of Section 3 of this Act;
- 10 (6) "Mental health disorder" is a diagnostic term that covers many clinical  
11 categories typically including behavioral or psychological symptoms, or both,  
12 along with impairment of personal and social function, and specifically defined  
13 and clinically interpreted through reference to criteria contained in the most  
14 recent edition of the American Psychiatric Association's Diagnostic and  
15 Statistical Manual of Mental Disorders;
- 16 (7) "Qualified mental health professional" means the same as in KRS 202A.011 and  
17 shall include a licensed clinical alcohol and drug counselor under KRS Chapter  
18 309;
- 19 (8) "Qualifying offense" means a misdemeanor or Class D felony that is not:
- 20 (a) An offense that would qualify the person as a violent offender under KRS  
21 439.3401;
- 22 (b) A sex crime as defined by KRS 17.500;
- 23 (c) An offense under KRS 189A.010; or
- 24 (d) An offense against a victim who has a protective order as defined in KRS  
25 508.130 or an interpersonal protective order issued under KRS 456.060  
26 against the defendant involving:
- 27 1. Domestic violence and abuse as defined in KRS 403.720; or

- 1                    2. Dating violence and abuse as defined in KRS 456.010;
- 2   (9) "Recovery services" means rehabilitative treatment services that shall include but
- 3   not be limited to any or all of the following:
- 4                    (a) Outpatient treatment;
- 5                    (b) National Alliance of Recovery Residences certified housing;
- 6                    (c) Medication treatment;
- 7                    (d) Personal and family counseling;
- 8                    (e) Substance abuse education and prevention classes or counseling;
- 9                    (f) Vocational training;
- 10                   (g) Literacy training;
- 11                   (h) Community service;
- 12                   (i) Inpatient or residential behavioral health treatment as needed to address:
- 13                         1. Impaired capacity to use self-control, judgment, or discretion related
- 14                                 to behavior;
- 15                         2. Severe dependence;
- 16                         3. Special detoxification;
- 17                         4. Relapse; or
- 18                         5. Other treatments recommended by a qualified mental health
- 19                                 professional;
- 20                   (j) Restorative practices designed to make the participant accountable to the
- 21                                 victim when there is an identified victim, and it is safe to do so; and
- 22                   (k) Recovery housing assistance; and
- 23   (10) "Substance use disorder" has the same meaning as in KRS 222.005.

24                    ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO

25   READ AS FOLLOWS:

- 26   (1) In addition to the pretrial diversion program established under KRS 533.250 to
- 27   533.260, and the deferred prosecution program under KRS 218A.14151, a

1 behavioral health conditional dismissal program shall be operated in each county  
2 participating in the pilot program established under Section 1 of this Act.. The  
3 behavioral health conditional dismissal program shall:

4 (a) Provide eligible persons, on an equal basis, an alternative to ordinary  
5 prosecution for qualifying offenses arising from a behavioral health  
6 disorder by receiving early recovery services and treatment reasonably  
7 expected to deter future criminal behavior; and

8 (b) Provide an expedited alternative to prosecution for eligible persons who  
9 may be harmed by the imposition of criminal sanctions in the absence of the  
10 alternative when the alternative is reasonably expected to serve as a  
11 sufficient deterrent to criminal conduct.

12 (2) The program may be utilized by any person:

13 (a) Who is a resident of the Commonwealth and who is at least eighteen (18)  
14 years of age;

15 (b) Whose clinical assessment indicates the presence of a behavioral health  
16 disorder;

17 (c) Charged with a qualifying offense;

18 (d) Who does not have a conviction for any disqualifying offense;

19 (e) Who has not been discharged or otherwise dismissed from a previously  
20 ordered conditional release program within the preceding five (5) years for  
21 noncompliance; and

22 (f) Who has been assessed as a low-risk, low-level offender, or has been  
23 otherwise determined by the attorney for the Commonwealth or the attorney  
24 for the defendant as a viable participant in the program.

25 (3) Other factors that may be considered for admission into the behavioral health  
26 conditional dismissal program include but are not limited to:

27 (a) The likelihood that the applicant's offense is related to a condition or



1 situation that would be conducive to change through his or her  
 2 participation in a behavioral health treatment program;

3 (b) The documented history of any physical violence toward others;

4 (c) Any involvement of the applicant with organized crime under KRS 506.120;  
 5 and

6 (d) Whether or not the applicant's participation in a behavioral health  
 7 treatment program would adversely affect the prosecution of codefendants.

8 (4) Eligible defendants in pretrial confinement shall be given preference for  
 9 participation in the behavioral health conditional dismissal program.

10 (5) Eligible defendants who have charges pending but are not in custody shall be  
 11 assessed for participation in the behavioral health conditional dismissal program.

12 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO  
 13 READ AS FOLLOWS:

14 (1) (a) Following arrest, and within twenty-four (24) hours after being booked into  
 15 a jail or detention facility, any person who has been charged with a  
 16 qualifying offense shall undergo a clinical assessment to determine if he or  
 17 she may have a behavioral health disorder;

18 (b) The jailer or his or her designee shall contact a qualified mental health  
 19 professional from a list of approved assessors for the county provided by the  
 20 Cabinet for Health and Family Services in accordance with Section 8 of this  
 21 Act and shall advise the qualified mental health professional that a clinical  
 22 assessment is needed;

23 (c) Notwithstanding any other provision to the contrary, the clinical assessment  
 24 may be conducted through telehealth or in person, whether the person  
 25 charged is in the custody of the jail or has been released;

26 (d) If the qualified mental health professional determines that the person being  
 27 assessed is physically or psychologically impaired to the extent that he or

- 1 she cannot provide sufficient information or response to conduct or  
2 complete the assessment, the assessment may be delayed but only for the  
3 time required for the person to adequately respond;
- 4 (e) No statement or other disclosure made by the person charged in the course  
5 of the clinical assessment shall be admissible in a criminal trial unless the  
6 trial is for a crime committed during the assessment;
- 7 (f) Any referral for treatment shall be based upon the clinical assessment and a  
8 finding by the qualified mental health professional that treatment is  
9 medically necessary;
- 10 (g) The treatment referral shall be forwarded to the attorney for the  
11 Commonwealth and the attorney for the person charged, if any, within  
12 forty-eight (48) hours of the assessment; and
- 13 (h) The failure of the assessor to forward the referral to the attorney for the  
14 Commonwealth or the attorney for the person charged, if any, within forty-  
15 eight (48) hours shall not result in automatic release of the person charged.
- 16 (2) At any time following arrest the Commonwealth's attorney if the underlying  
17 charge includes a felony, or the county attorney if the underlying charge only  
18 includes a misdemeanor, and the person charged may agree to the individual's  
19 participation in the behavioral health conditional dismissal program.
- 20 (3) When an individual is being considered for the behavioral health conditional  
21 dismissal program, the attorney for the Commonwealth shall:
- 22 (a) Have a criminal record check made to ascertain if the person is eligible for  
23 the program;
- 24 (b) Consult with the victim of the crime, if there is an identified victim;
- 25 (c) Explain the behavioral health conditional dismissal program to the victim,  
26 including potential terms and conditions, and any other matter the attorney  
27 for the Commonwealth deems to be appropriate; and

- 1        (d) Conduct any other investigation that the attorney for the Commonwealth  
2        determines may be necessary to assist him or her in agreeing to the referral  
3        for treatment by the qualified mental health professional and the  
4        defendant's participation in the behavioral health conditional dismissal  
5        program.
- 6        (4) If the defendant agrees to the terms of the individualized treatment plan, which  
7        may include restitution, and the attorney for the Commonwealth agrees to the  
8        defendant's participation in the program, the defendant and the attorney for the  
9        Commonwealth shall sign an agreement specifying the terms and conditions. If  
10       the defendant is represented by counsel, defense counsel shall also sign the  
11       agreement.
- 12       (5) The length of the program shall be determined by the qualified mental health  
13       professional based upon the assessment and shall not:
- 14       (a) Be less than one (1) year in duration unless discharged earlier by the  
15       provider upon satisfactory completion of the recommended treatment plan  
16       with agreement of the attorney for the Commonwealth after consultation  
17       with the victim, and with agreement of the defendant; or
- 18       (b) Exceed a period of time longer than the defendant's maximum potential  
19       period of incarceration if found guilty of the offenses charged unless the  
20       defendant agrees in writing to an extension of the treatment period.
- 21       (6) A defendant participating in the behavioral health conditional dismissal program  
22       shall not be required to plead guilty or enter an Alford plea as a condition for  
23       participation in the program.
- 24       (7) Execution of the agreement by the defendant shall toll all further proceedings  
25       against the defendant relating to the agreement.
- 26       (8) Upon execution of the agreement as provided in subsection (4) of this section, the  
27       defendant shall present himself or herself for treatment no later than three (3)

1 days after the agreement is signed. The attorney for the Commonwealth shall:

2 (a) Notify the treatment provider of the agreement and the effective date; and

3 (b) Notify the victim, if there is an identified victim, that an agreement has been  
 4 reached for the defendant's participation in the behavioral health  
 5 conditional dismissal program.

6 (9) If the defendant remains in custody at the time of the agreement, the court shall  
 7 order release of the defendant which shall not include a requirement of cash bail.

8 (10) The charges against the defendant shall proceed with ordinary prosecution  
 9 upon dismissal of the defendant from the treatment program by the provider for  
 10 noncompliance.

11 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO  
 12 READ AS FOLLOWS:

13 (1) Upon initiation of treatment, the designated behavioral health treatment provider  
 14 shall assign a case manager who shall notify the Office of Adult Education  
 15 within the Department of Workforce Investment of the Education and Workforce  
 16 Development Cabinet of the individual's participation in a behavioral health  
 17 conditional dismissal program.

18 (2) The case manager shall work in collaboration with the individual referred for  
 19 treatment and the treatment team to:

20 (a) Obtain all releases from the individual served that may be required to  
 21 confirm compliance with the program requirements;

22 (b) Coordinate all services and testing required under the program, including  
 23 transportation if needed and available;

24 (c) Receive and maintain copies of all necessary documentation to ensure  
 25 compliance with the program requirements, including but not limited to:

26 1. Treatment records;

27 2. Drug tests;

- 1           3. Educational assessments and advancements, if applicable;  
2           4. Employment status and employment training;  
3           5. Community service, if applicable; and  
4           6. Housing status;  
5           (d) Meet or conference with providers of any program requirements on a  
6           regular basis to address the participant's progress and any required  
7           adjustment that may be needed to the participant's program;  
8           (e) Provide periodic progress reports to the attorney for the Commonwealth and  
9           the attorney for the participant according to the following schedule:  
10          1. An initial report within fourteen (14) days of the initiation of  
11          treatment;  
12          2. A follow-up report within twenty-eight (28) days of the initiation of  
13          treatment;  
14          3. Subsequent reports on a quarterly basis throughout the course of  
15          treatment; and  
16          4. A final report within fourteen (14) days of the successful completion  
17          of the program;  
18          (f) Request modifications that may be needed to the treatment program to the  
19          attorney for the Commonwealth, and the attorney for the participant;  
20          (g) Review the individual's progress and recommend continued participation in  
21          the program or dismissal from the program due to an inability or  
22          unwillingness to meet the terms and conditions of the program;  
23          (h) Immediately report dismissal from the treatment program based upon lack  
24          of compliance with the terms and conditions of the program to the attorney  
25          for the Commonwealth and the attorney for the participant; and  
26          (i) Advise the attorney for the Commonwealth and the attorney for the  
27          participant of the participant's successful completion of the program

1           requirements.

2           ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO  
3 READ AS FOLLOWS:

4           (1) Upon successful completion of the behavioral health conditional dismissal  
5           program:

6           (a) The court shall dismiss the charged offense or offenses with prejudice and  
7           discharge the defendant;

8           (b) All records relating to the case, including but not limited to arrest records  
9           and records relating to the charges, shall be sealed, except as provided in  
10           KRS 27A.099;

11           (c) The offense shall be deemed never to have occurred, except for purposes of  
12           determining the defendant's eligibility for deferred prosecution under KRS  
13           218A.1415; and

14           (d) The defendant shall not be required to disclose the arrest or other  
15           information relating to the charges or participation in the program on an  
16           application for employment, credit, or other type of application unless  
17           required to do so by state or federal law.

18           (2) If a defendant who is participating in the behavioral health conditional dismissal  
19           program is convicted or enters a guilty plea to any felony offense under any law  
20           of the United States, this state, or any other state, the defendant shall be  
21           discharged from the behavioral health conditional dismissal program for failure  
22           to comply with the terms and conditions.

23           (3) If the defendant is discharged from the behavioral health conditional dismissal  
24           program by the treatment provider under Section 5 of this Act, all statements or  
25           other disclosures made by the defendant to any provider while participating in the  
26           program shall be protected by all applicable privacy laws and professional  
27           standards regarding confidentiality and shall not be admissible in a criminal trial

1 relating to the offenses covered by the agreement executed under Section 4 of this  
2 Act.

3 (4) The attorney for the Commonwealth shall notify the victim, if there is an  
4 identified victim, of the defendant's dismissal from the program for  
5 noncompliance or discharge from the program following successful completion  
6 of the program.

7 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO  
8 READ AS FOLLOWS:

9 (1) In establishing a specific behavioral health disorder treatment plan, the program  
10 provider formulating the plan shall consider the following:

11 (a) The existence of programs and resources within the community;

12 (b) Available treatment providers;

13 (c) Accessible public and private agencies;

14 (d) The benefit of keeping the defendant in his or her community or relocation  
15 for purposes of treatment;

16 (e) The safety of the victim of the offense, if there is an identified victim; and

17 (f) The specific and personalized needs of the defendant.

18 (2) A program shall be designed to provide the defendant with the skills and training  
19 needed to prevent the person from engaging in criminal activity arising from a  
20 behavioral health disorder upon release from the program.

21 (3) A behavioral health disorder treatment program under this chapter shall be  
22 evidence-based, and may be a behavioral treatment plan, or a medically assisted  
23 treatment plan, or both, with recovery services. The program shall provide at a  
24 minimum access, as needed, to:

25 (a) Inpatient detoxification and treatment, that may include a faith-based  
26 residential treatment program;

27 (b) Outpatient treatment;

- 1        (c) Drug testing;
- 2        (d) Addiction counseling;
- 3        (e) Cognitive and behavioral therapies;
- 4        (f) Medication assisted treatment including at least one (1) federal Food and  
5                Drug Administration approved agonist medication for the treatment of  
6                opioid or alcohol dependence;
- 7        (g) Educational services;
- 8        (h) Vocational services;
- 9        (i) Housing assistance; and
- 10       (j) Community support services, that may include faith-based services.
- 11       (4) All program providers shall:
- 12               (a) Meet the licensure requirements and standards established by the Cabinet  
13               for Health and Family Services under KRS Chapter 222;
- 14               (b) Qualify as a Medicaid approved provider; and
- 15               (c) Be accredited by at least one (1) of the following:
- 16                        1. American Society of Addiction Medicine;
- 17                        2. Joint Commission on the Accreditation of Healthcare Organizations;
- 18                                or
- 19                        3. Commission on Accreditation of Rehabilitation Facilities;
- 20       (5) (a) The Department for Medicaid Services, in conjunction with the program  
21               provider, shall assist any program participant who qualifies for Medicaid  
22               services to obtain or access Medicaid services for his or her behavioral  
23               health disorder treatment or recovery program;
- 24               (b) The Department for Medicaid Services and its contractors shall provide an  
25               individual participating in the behavioral health conditional dismissal  
26               program with the substance use disorder benefit as provided under KRS  
27               205.6311; and



1        (c) A Medicaid managed care organization shall treat any referral for  
 2            treatment under Sections 1 to 8 of this Act as an "expedited authorization  
 3            request" as provided under KRS 205.534(2)(a)2.b.

4        ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 355 IS CREATED TO  
 5 READ AS FOLLOWS:

6        (1) The Cabinet for Health and Family Services shall establish and maintain a list of  
 7            approved assessors for each county participating in the pilot program established  
 8            under Section 1 of this Act to perform clinical assessments; and

9        (2) No assessor shall be approved unless he or she is a:

10        (a) Qualified mental health professional as defined under Section 2 of this Act;  
 11            and

12        (b) Medicaid approved provider or employed by a Medicaid approved provider.

13        ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO  
 14 READ AS FOLLOWS:

15        (1) (a) The Office of Adult Education within the Department of Workforce  
 16            Investment of the Education and Workforce Development Cabinet shall  
 17            conduct an in-person initial screening of any individual participating in a  
 18            behavioral health conditional dismissal program within thirty (30) days of a  
 19            participant beginning the program under Section 4 of this Act.

20        (b) Nothing in this section shall prohibit any department, office, or division of  
 21            the Education and Workforce Development Cabinet from entering into an  
 22            agreement with a third party in each county participating in the pilot  
 23            program to provide the services required under this section.

24        (2) The initial screening shall include:

25        (a) Educational history including highest school grade completed, and when;

26        (b) Employment history including types and lengths of employments;

27        (c) Military history, if any;

- 1        (d) The participant's physical, mental, and emotional abilities and limitations;  
2        (e) Aptitude, skill level, and interest testing;  
3        (f) An assessment of language skills; and  
4        (g) A determination of whether further assessment is needed to develop the  
5                vocational component of the treatment program. If further assessment is  
6                required, it shall be completed within the first ninety (90) days following  
7                entry into the treatment program unless additional time is needed to provide  
8                for physical recovery from the effects of a severe behavioral health disorder.
- 9        (3) Within ten (10) days of completion of the vocational assessment, the Office of  
10                Adult Education, in consultation with the behavioral health conditional dismissal  
11                program provider, shall establish an individualized plan designed to attain a  
12                specific employment outcome to include:
- 13                (a) Specific educational goals with identification of institutions from which the  
14                participant will receive educational credits or training;  
15                (b) Specific job-skills training and the facility or institution from which the  
16                participant will receive the training;  
17                (c) The required number of hours per week the participant will be engaged in  
18                educational or vocational training, including anticipated study time or  
19                assigned projects completion time outside of the classroom or training  
20                facility;  
21                (d) The specific services that will be provided through the Department of  
22                Workforce Investment to achieve the employment outcome, overcome or  
23                minimize any identified obstacles to employment, and the frequency with  
24                which those services will be provided;  
25                (e) The beginning and projected completion date of each service;  
26                (f) If supported employment training or services are to be provided outside of  
27                the Education and Workforce Development Cabinet, the identification of

1 the provider of the extended services and the reporting and accountability  
 2 requirements established with the program provider;

3 (g) The criteria established for evaluating progress and success;

4 (h) The attendance and reporting requirements established for the participant  
 5 and for the institution or facility providing the service, including to whom  
 6 and with what frequency reports are to be made;

7 (i) The date the employment plan is estimated to be completed;

8 (j) The job-placement assistance plan that will be provided to the participant by  
 9 the department; and

10 (k) The need for ongoing or future training following completion of the  
 11 employment plan and the availability of that training to the participant.

12 (4) The Department of Workforce Investment, in consultation with the Kentucky  
 13 Higher Education Assistance Authority, shall provide the participant with  
 14 assistance in securing all scholarships, grants, or other available financial  
 15 assistance to ensure access to the educational or training requirements needed to  
 16 achieve the specific employment outcome.

17 (5) The Department of Workforce Investment may establish an electronic registry to  
 18 be used by participants in the behavioral conditional dismissal program,  
 19 treatment plan providers, and prospective employers to assist in matching  
 20 program participants with employment opportunities.

21 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO  
 22 READ AS FOLLOWS:

23 (1) The Behavioral Health Conditional Dismissal Program Implementation Council  
 24 is created for the purpose of assisting with the implementation of the behavioral  
 25 health conditional dismissal pilot program created under Section 1 of this Act.

26 (2) The membership of the council shall include the following:

27 (a) The executive director of the Office of Drug Control Policy, or his or her

- 1           designee, who shall serve as chair of the council;
- 2           (b) The director of the Administrative Office of the Courts, or his or her
- 3           designee;
- 4           (c) The commissioner of the Department for Behavioral Health, Developmental
- 5           and Intellectual Disabilities, or his or her designee;
- 6           (d) The commissioner of the Kentucky Department for Medicaid Services, or
- 7           his or her designee;
- 8           (e) The public advocate, or his or her designee;
- 9           (f) A member of the Kentucky Commonwealth's Attorneys' Association, elected
- 10           by its membership; and
- 11           (g) The executive director of the Kentucky Jailers Association, or his or her
- 12           designee.
- 13           (3) The council shall meet at least quarterly. Meetings shall be held at the call of the
- 14           chair, or upon the written request of two (2) members to the chair.
- 15           (4) The council shall:
- 16           (a) Oversee the implementation of the behavioral health conditional dismissal
- 17           program pilot project;
- 18           (b) Review the data collected by the Administrative Office of the Courts and
- 19           report to the Interim Joint Committee on Judiciary and the Governor by
- 20           October 1 of each year of the pilot project regarding:
- 21           1. Recommendations for any additional performance measures needed to
- 22           promote the success of the program;
- 23           2. Whether any action is necessary, including funding or legislation;
- 24           3. Recommendations for resolving any matters that reduce the
- 25           effectiveness of the program; and
- 26           4. Any additional information the council deems appropriate.
- 27           (5) Members shall not receive any additional compensation for their service on the

1 *council but shall be reimbursed for all necessary expenses.*

2 *(6) The council shall be attached to the Justice and Public Safety Cabinet for*  
 3 *administrative purposes.*

4 *(7) The council shall terminate September 30, 2027, unless extended by the General*  
 5 *Assembly.*

6 ➔Section 11. KRS 197.020 is amended to read as follows:

- 7 (1) The Department of Corrections shall:
- 8 (a) Promulgate administrative regulations for the government and discipline of  
 9 the penitentiary, for the government and official conduct of all officials  
 10 connected with the penitentiary, and for the government of the prisoners in  
 11 their department and conduct;
- 12 (b) Promulgate administrative regulations for the character of food and diet of the  
 13 prisoners; the preservation of the health of the prisoners; the daily cleansing of  
 14 the penitentiary; the cleanliness of the persons of the prisoners; the general  
 15 sanitary government of the penitentiary and prisoners; the character of the  
 16 labor; the quantity of food and clothing; and the length of time during which  
 17 the prisoners shall be employed daily;
- 18 (c) Promulgate administrative regulations, as the department deems necessary, for  
 19 the disposition of abandoned, lost, or confiscated property of prisoners;
- 20 (d) Promulgate administrative regulations for the administration of a validated  
 21 risk and needs assessment to assess the criminal risk factors and correctional  
 22 needs of all inmates upon commitment to the department;
- 23 (e) Promulgate administrative regulations to:
- 24 1. Create a certification process for county jails that may house female  
 25 state inmates. The administrative regulations shall include a requirement  
 26 of a physical barrier between male and female inmates; and  
 27 2. *Require telehealth services in county jails; and*

- 1 (f) Cause the administrative regulations promulgated by the department, together  
2 with the law allowing commutation of time to prisoners for good conduct, to  
3 be printed and posted in conspicuous places in the cell houses and workshops.
- 4 (2) The department may impose a reasonable fee for the use of medical facilities by a  
5 prisoner who has the ability to pay for the medical and dental care. These funds may  
6 be deducted from the prisoner's inmate account. A prisoner shall not be denied  
7 medical or dental treatment because he or she has insufficient funds in his or her  
8 inmate account.
- 9 (3) The department may promulgate administrative regulations in accordance with KRS  
10 Chapter 13A to implement a program that provides for reimbursement of telehealth  
11 consultations.
- 12 (4) Fees for the use of medical facilities by a state prisoner who is confined in a jail  
13 pursuant to KRS 532.100 or other statute shall be governed by KRS 441.045.