

1 AN ACT relating to pretrial release.

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

3 ➔Section 1. KRS 431.066 is amended to read as follows:

- 4 (1) For purposes of this section, "verified and eligible defendant" means a defendant
5 who pretrial services is able to interview and assess, and whose identity pretrial
6 services is able to confirm through investigation.
- 7 (2) When a court considers pretrial release and bail for an arrested defendant, the court
8 shall consider whether the defendant constitutes a flight risk, is unlikely to appear
9 for trial, or is likely to be a danger to the public if released. In making this
10 determination, the court shall consider the pretrial risk assessment for a verified and
11 eligible defendant along with the factors set forth in KRS 431.525 ***and 431.064.***
- 12 (3) If a verified and eligible defendant poses low risk of flight, is likely to appear for
13 trial, and is not likely to be a danger to others, the court shall order the defendant
14 released on unsecured bond or on the defendant's own recognizance subject to such
15 other conditions as the court may order, ***except as provided in subsection (5) of this***
16 ***section.***
- 17 (4) If a verified and eligible defendant poses a moderate risk of flight, has a moderate
18 risk of not appearing for trial, or poses a moderate risk of danger to others, the court
19 shall release the defendant under the same conditions as in subsection (3) of this
20 section but ~~may~~ ***shall*** consider ordering the defendant to participate in global
21 positioning system monitoring, controlled substance testing, increased supervision,
22 or such other conditions as the court may order, ***except as provided in subsection***
23 ***(5) of this section.***
- 24 ***(5) When a verified and eligible defendant is released on recognizance or on***
25 ***unsecured bond, any conditions imposed by the court shall be the least restrictive***
26 ***necessary to ensure appearance in court and mitigate danger, and shall not be***
27 ***imposed as a means of punishment. A verified and eligible defendant may be***

1 ordered to participate in a global positioning system, monitoring, controlled
2 substance testing, or home confinement only if no less-restrictive condition of
3 release or combination of less-restrictive conditions of release would reasonably
4 mitigate the risk of flight or danger to others.

5 ~~(6)~~~~(5)~~ (a) Except as provided in paragraph (b) of this subsection, regardless of the
6 amount of the bail set, the court shall permit the defendant a credit of one
7 hundred dollars (\$100) per day as a payment toward the amount of the bail set
8 for each day or portion of a day that the defendant remains in jail prior to trial.
9 Upon the service of sufficient days in jail to have sufficient credit to satisfy
10 the bail, the defendant shall be released from jail on the conditions specified
11 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 ~~(7)~~~~(6)~~ If a court determines that a defendant shall not be released pursuant to
24 subsection ~~(6)~~~~(5)~~ of this section, the court shall document the reasons for denying
25 the release in a written order.

26 ~~(8)~~~~(7)~~ The jailer shall be responsible for tracking the credit earned by a defendant
27 pursuant to subsection ~~(6)~~~~(5)~~ of this section.

1 (9) Notwithstanding any other provision of law, any person who is denied pretrial
2 release, or who remains in detention because he or she is unable to meet the
3 conditions of pretrial release shall, unless waived by the defendant, have his or
4 her case tried:

5 (a) If a felony offense, within one hundred eighty (180) days of his or her first
6 appearance in the court in which he or she will be tried; or

7 (b) If a misdemeanor offense, within ninety (90) days of his or her first
8 appearance in the court in which he or she will be tried.

9 (10) If a person who remains in detention because he or she is unable to meet the
10 conditions of pretrial release is not brought to trial within the time frame
11 established in subsection (9), he or she shall be released unless, on motion of the
12 prosecutor, the court finds by clear and convincing evidence that he or she poses
13 a particularized risk of imminent serious physical harm to a reasonably
14 identifiable person or persons other than himself or herself, such that no
15 nonfinancial conditions or combination of conditions of release will reasonably
16 address that risk.

17 (11) The time periods established in subsection (9) of this section may be extended,
18 upon motion by the prosecution or the defense and good cause found by the
19 Court. The Court shall establish a revised time frame and shall state on the
20 record the reasons for extending the time period.

21 (12) The following time periods shall be excluded in computing the time periods
22 established in subsection (9) of this section:

23 (a) Prior to August 1, 2026, each day of delay resulting from the processing of
24 evidence by the Kentucky State Police forensic laboratory when the testing
25 and analysis would yield evidence of probative value that the defendant is a
26 risk to a reasonably identifiable person or persons other than himself or
27 herself; and

1 **(b) The time resulting from an examination and hearing on competency and**
2 **the period during which the defendant is incompetent to stand trial.**

3 ➔Section 2. KRS 431.520 is amended to read as follows:

4 Any person charged with an offense shall be ordered released by a court of competent
5 jurisdiction pending trial on his personal recognizance or upon the execution of an
6 unsecured bail bond in an amount set by the court or as fixed by the Supreme Court as
7 provided by KRS 431.540, unless the court determines in the exercise of its discretion
8 that such a release will not reasonably assure the appearance of the person as required, or
9 the court determines the person is a flight risk or a danger to others. When such a
10 determination is made, the court shall, either in lieu of or in addition to the above
11 methods of release, impose any of the following conditions of release:

- 12 (1) Place the person in the custody of a designated person or organization agreeing to
13 supervise him **or her**;
- 14 (2) Place restrictions on the travel, association, or place of abode of the person during
15 the period of release;
- 16 (3) Require the execution of a bail bond:
- 17 (a) With sufficient personal surety or sureties acceptable to the court; in
18 determining the sufficiency of such surety or sureties, the court shall consider
19 his **or her** character, his **or her** place of residence, his **or her** relationship with
20 the defendant, and his **or her** financial and employment circumstances; or
- 21 (b) With the ten percent (10%) deposit as provided in KRS 431.530; provided
22 that if the defendant is permitted to earn credit toward bail pursuant to KRS
23 431.066, that credit shall be applied to the ten percent (10%) deposit; or
- 24 (c) With the deposit of cash equal to the amount of the bond or in lieu thereof
25 acceptable security as provided in KRS 431.535;
- 26 (4) If the **court orders a defendant charged with any offense to be released on**
27 **recognizance or unsecured bond, impose certain conditions of release, except as**

1 provided in subsection (8) of this section, including~~[person's record indicates a~~
2 ~~history of controlled substance or alcohol abuse]:~~

3 (a) Order the person to submit to periodic testing for use of controlled substances
4 or alcohol and pay a reasonable fee, not to exceed the actual cost of the test
5 and analysis, as determined by the court with the fee to be collected by the
6 circuit clerk, held in an agency account, and disbursed, on court order, solely
7 to the agency or agencies responsible for testing and analysis as compensation
8 for the cost of the testing and analysis performed under this subsection. If the
9 person is declared indigent, the testing fee shall~~may~~ be waived by the court.
10 The Administrative Office of the Courts shall establish pilot projects to
11 implement the provisions of this subsection; or

12 (b) Order the person to use an alcohol monitoring device, as defined in KRS
13 431.068. All costs associated with the device, including administrative and
14 operating costs, shall be paid by the defendant. If the court determines that the
15 defendant is indigent, and a person, county, or other organization has not
16 agreed to pay the costs for the defendant in an attempt to reduce incarceration
17 expenses and increase public safety, the court shall waive the costs or
18 consider other conditions of release provided for in this section;

19 (5) (a) During all or part of a person's period of release pursuant to this section, order
20 the person to participate in a global positioning monitoring system program
21 operated by a county pursuant to KRS 67.372 and 67.374 under the same
22 terms and conditions provided under KRS 431.517, except as provided in
23 subsection (8) of this section.

24 (b) If the person is charged with a sex crime as defined in KRS 17.500, consider
25 requiring that he or she be monitored electronically, and shall consider
26 requiring the person be subject to home incarceration, except as provided in
27 subsection (8) of this section;

- 1 (6) Impose any other condition deemed reasonably necessary to assure appearance as
2 required, including a condition requiring that the person return to custody after
3 specified hours;
- 4 (7) A court authorizing the release of a person pursuant to this section shall cause the
5 issuance of an appropriate order containing a statement of the conditions imposed,
6 if any, shall cause such person to be informed of the penalties applicable to
7 violations of the conditions of his release, and shall cause him or her to be informed
8 that a warrant for his or her arrest will be issued immediately upon any such
9 violation;
- 10 (8) Any conditions imposed by the court shall be the least restrictive necessary to
11 ensure appearance in court and mitigate danger, and shall not be imposed as a
12 means of punishment. A verified and eligible defendant may be ordered to
13 participate in global positioning system monitoring, periodic testing for use of
14 controlled substances or alcohol, or home confinement only if no less-restrictive
15 condition of release or combination of less-restrictive conditions of release would
16 reasonably mitigate the risk of flight or danger to others.
- 17 (9) A person for whom conditions of release are imposed and who after twenty-four
18 (24) hours from the time of the imposition of said conditions continues to be
19 detained as a result of his inability to meet the conditions of release shall, upon
20 written application or upon the court's own motion, be entitled to have the
21 conditions reviewed by the court which imposed them. A person who is ordered
22 released on a condition which requires that he or she return to custody after
23 specified hours shall, upon written application or upon the court's own motion, be
24 entitled to a review by the court which imposed the condition; or
- 25 ~~(10)~~⁽⁹⁾ If at any time following release of a defendant and before he or she is required
26 to appear for trial, the court is advised of a material change in the defendant's
27 circumstances or that he or she has not complied with all conditions imposed upon

1 his release, the court having jurisdiction may:

2 (a) Order the arrest of the defendant;

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

6 (c) Both.

7 A copy of ~~the said~~ order shall be served upon the defendant, his or her surety or
8 sureties. If the defendant fails to appear before the court as ordered or if, after
9 hearing, the court finds the conditions of release have not been complied with, the
10 court may change the conditions imposed or forfeit the bail bond or any portion
11 thereof and enter a judgment for the Commonwealth against the defendant and his
12 or her surety or sureties for the amount of the bail bond or any portion thereof and
13 cost of the proceedings.

14 **(11) Notwithstanding any other provision of the Kentucky Revised Statutes, any**
15 **person who is denied pretrial release, or who remains in detention because he or**
16 **she is unable to meet the conditions of pretrial release shall, unless waived by the**
17 **defendant, have his or her case tried:**

18 **(a) If a felony offense, within one hundred eighty (180) days of his or her first**
19 **appearance in the court in which he or she will be tried; or**

20 **(b) If a misdemeanor offense, within ninety (90) days of his or her first**
21 **appearance in the court in which he or she will be tried.**

22 **(12) If a person who remains in detention because he or she is unable to meet the**
23 **conditions of pretrial release is not brought to trial within the time frame**
24 **established in subsection (11), he or she shall be released unless, on motion of the**
25 **prosecutor, the court finds by clear and convincing evidence that he or she poses**
26 **a particularized risk of imminent serious physical harm to a reasonably**
27 **identifiable person or persons, other than him or herself, such that no**

1 nonfinancial conditions or combination of conditions of release will reasonably
2 address that risk.

3 (13) The time periods established in subsection (11) of this section may be extended
4 upon motion by the prosecution or the defense and good cause found by the
5 court. The court shall establish a revised time frame and shall state on the record
6 the reasons for extending the time period.

7 (14) The following time periods shall be excluded in computing the time periods
8 established in subsection (11) of this section:

9 (a) Prior to August 1, 2026, each day of delay resulting from the processing of
10 evidence by the Kentucky State Police Forensic Laboratory when the testing
11 and analysis would yield evidence of probative value that the defendant is a
12 risk to a reasonably identifiable person or persons other than himself or
13 herself; and

14 (b) The time resulting from an examination and hearing on competency and
15 the period during which the defendant is incompetent to stand trial.