

**189A.120 Prosecutor's duties with regard to amendment of charges -- Amendment of blood alcohol concentration -- Record of charges and amendments.**

- (1) When an alcohol concentration for a person twenty-one (21) years of age or older in a prosecution for violation of KRS 189A.010 is 0.08 or above, is 0.02 or above for a person under the age of twenty-one (21), or when the defendant, regardless of age, has refused to take an alcohol concentration or substance test, a prosecuting attorney shall not agree to the amendment of the charge to a lesser offense and shall oppose the amendment of the charge at trial, unless all prosecution witnesses are, and it is expected they will continue to be, unavailable for trial.
- (2) A prosecuting attorney shall not amend a blood alcohol concentration, and he or she shall oppose the amendment of the percentage, unless uncontroverted scientific evidence is presented that the test results were in error. In those cases, the prosecutor shall state his or her reasons for agreeing with the amendment, and the scientific data upon which the amendment was made shall be made a part of the record in this case.
- (3) The record of charges and disposition thereof, including reasons for amending the charges, shall be transmitted by the court to the Justice and Public Safety Cabinet for inclusion in the centralized criminal history record information system under KRS 17.150.

**Effective:** June 26, 2007

**History:** Amended 2007 Ky. Acts ch. 85, sec. 215, effective June 26, 2007. -- Amended 2000 Ky. Acts ch. 467, sec. 11, effective October 1, 2000. -- Amended 1996 Ky. Acts ch. 198, sec. 13, effective October 1, 1996. -- Amended 1991 (1st Extra. Sess.) Ky. Acts ch. 15, sec. 17, effective July 1, 1991. -- Created 1984 Ky. Acts ch. 165, sec. 12, effective July 13, 1984.