

**532.100 Place of imprisonment -- Commitment when death sentence imposed -- Incarceration of certain Class C and D felons and felons convicted of sex crimes.**

- (1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the Department of Corrections for the term of his sentence and until released in accordance with the law.
- (2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.
- (3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the Department of Corrections with directions that the sentence be carried out according to law.
- (4)
  - (a) The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is sentenced to an indeterminate term of imprisonment of five (5) years or less, he shall serve that term in a county jail in a county in which the fiscal court has agreed to house state prisoners; except that, when an indeterminate sentence of two (2) years or more is imposed on a Class D felon convicted of a sexual offense enumerated in KRS 197.410(1), or a crime under KRS 17.510(11) or (12), the sentence shall be served in a state institution. Counties choosing not to comply with the provisions of this paragraph shall be granted a waiver by the commissioner of the Department of Corrections.
  - (b) The provisions of KRS 500.080(5) notwithstanding, a Class D felon who received a sentence of more than five (5) years for nonviolent, nonsexual offenses, but who currently has less than five (5) years remaining to be served, may serve the remainder of his or her term in a county jail in a county in which the fiscal court has agreed to house state prisoners.
  - (c)
    1. The provisions of KRS 500.080(5) notwithstanding, and except as provided in subparagraph 2. of this paragraph, a Class C or D felon with a sentence of more than five (5) years who is classified by the Department of Corrections as community custody shall serve that term in a county jail in a county in which the fiscal court has agreed to house state prisoners if:
      - a. Beds are available in the county jail;
      - b. State facilities are at capacity; and
      - c. Halfway house beds are being utilized at the contract level as of July 15, 2000.
    2. When an indeterminate sentence of two (2) years or more is imposed on a felon convicted of a sex crime, as defined in KRS 17.500, or any similar offense in another jurisdiction, the sentence shall be served in a state institution.
    3. Counties choosing not to comply with the provisions of this paragraph shall be granted a waiver by the commissioner of the Department of Corrections.

- (d) Any jail that houses state inmates under this subsection shall offer programs as recommended by the Jail Standards Commission. The Department of Corrections shall adopt the recommendations of the Jail Standards Commission and promulgate administrative regulations establishing required programs for a jail that houses state inmates under this subsection.
- (5) The jailer of a county in which a Class D felon or a Class C felon is incarcerated may request the commissioner of the Department of Corrections to incarcerate the felon in a state corrections institution if the jailer has reasons to believe that the felon is an escape risk, a danger to himself or other inmates, an extreme security risk, or needs protective custody beyond that which can be provided in a county jail. The commissioner of the Department of Corrections shall evaluate the request and transfer the inmate if he deems it necessary. If the commissioner refuses to accept the felon inmate, and the Circuit Judge of the county that has jurisdiction of the offense charged is of the opinion that the felon cannot be safely kept in a county jail, the Circuit Judge, with the consent of the Governor, may order the felon transferred to the custody of the Department of Corrections.
- (6) Class D felons and Class C felons serving their time in a local jail shall be considered state prisoners, and the Department of Corrections shall pay the jail in which the prisoner is incarcerated a per diem amount determined according to KRS 431.215(2). For other state prisoners and parole violator prisoners, the per diem payments shall also begin on the date prescribed in KRS 431.215(2).
- (7) State prisoners, excluding the Class D felons and Class C felons qualifying to serve time in county jails, shall be transferred to the state institution within forty-five (45) days of final sentencing.

**Effective:** June 8, 2011

**History:** Amended 2011 Ky. Acts ch. 2, sec. 40, effective June 8, 2011. -- Amended 2006 Ky. Acts ch. 182, sec. 46, effective July 12, 2006. -- Amended 2000 Ky. Acts ch. 384, sec. 3, effective July 14, 2000; and ch. 401, sec. 36, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 108, sec. 7, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 211, sec. 134, effective July 14, 1992; and ch. 262, sec. 8, effective July 14, 1992. -- Amended 1986 Ky. Acts ch. 331, sec. 58, effective July 15, 1986. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 15, sec. 5, effective December 22, 1976. -- Created 1974 Ky. Acts ch. 406, sec. 282, effective January 1, 1975; and ch. 74, Art. V, sec. 24(14).

**2010-2012 Budget Reference.** See State/Executive Branch Budget, 2010 (1st Extra. Sess.) Ky. Acts ch. 1, Pt. I, H, 5, b, (8) at 45.