

**532.120 Calculation of terms of imprisonment -- Inmate's right to challenge Department of Corrections.**

- (1) An indeterminate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the Department of Corrections. When a person is under more than one (1) indeterminate sentence, the sentences shall be calculated as follows:
  - (a) If the sentences run concurrently, the maximum terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or
  - (b) If the sentences run consecutively, the maximum terms are added to arrive at an aggregate maximum term equal to the sum of all the maximum terms.
- (2) A definite sentence of imprisonment commences when the prisoner is received in the institution named in the commitment. When a person is under more than one (1) definite sentence, the sentences shall be calculated as follows:
  - (a) If the sentences run concurrently, the terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or
  - (b) If the sentences run consecutively, the terms are added to arrive at an aggregate term and are satisfied by discharge of the aggregate term.
- (3) Time spent in custody prior to the commencement of a sentence as a result of the charge that culminated in the sentence shall be credited by the Department of Corrections toward service of the maximum term of imprisonment in cases involving a felony sentence and by the sentencing court in all other cases. If the sentence is to an indeterminate term of imprisonment, the time spent in custody prior to the commencement of the sentence shall be considered for all purposes as time served in prison.
- (4) If a person has been in custody due to a charge that culminated in a dismissal, acquittal, or other disposition not amounting to a conviction, the amount of time that would have been credited under subsection (3) of this section if the defendant had been convicted of that charge shall be credited as provided in subsection (3) of this section against any sentence based on a charge for which a warrant or commitment was lodged during the pendency of that custody.
- (5) If a person serving a sentence of imprisonment escapes from custody, the escape shall interrupt the sentence. The interruption shall continue until the person is returned to the institution from which he escaped or to an institution administered by the Department of Corrections. Time spent in actual custody prior to return under this subsection shall be credited against the sentence if custody rested solely on an arrest or surrender for the escape itself.
- (6) As used in subsections (3) and (4) of this section, time spent in custody shall include time spent in the intensive secured substance abuse recovery program developed under KRS 196.285 and may include, at the discretion of the sentencing court, time spent in a different residential substance abuse treatment or recovery facility pursuant to KRS 431.518 or 533.251, if under each option allowed by this subsection, the person has successfully completed the program offered by the

intensive secured substance abuse recovery program or the residential substance abuse treatment or recovery facility. If the defendant fails to complete a program, the court may still award full or partial sentence credit if the defendant demonstrates that good cause existed for the failure to complete the program.

- (7) In lieu of an award by the Department of Corrections in felony cases, if a presentence report indicates that a defendant has accumulated sufficient sentencing credits under this section to allow for an immediate discharge from confinement upon pronouncement of sentence, the court may confirm the amount of the credit and award the credit at pronouncement.
- (8) An inmate may challenge a failure of the Department of Corrections to award a sentencing credit under this section or the amount of credit awarded by motion made in the sentencing court no later than thirty (30) days after the inmate has exhausted his or her administrative remedies.

**Effective:** June 8, 2011

**History:** Amended 2011 Ky. Acts ch. 2, sec. 98, effective June 8, 2011. -- Amended 2009 Ky. Acts ch. 96, sec. 6, effective March 24, 2009. -- Amended 1992 Ky. Acts ch. 211, sec. 136, effective July 14, 1992. -- Amended 1986 Ky. Acts ch. 331, sec. 60, effective July 15, 1986. -- Created 1974 Ky. Acts ch. 406, sec. 284, effective January 1, 1975; and ch. 74, Art. V, sec. 24(14).