

439.315 Payment of fee by released person -- Amount -- Waiver of payment -- Applicable to persons released by county containing a city of the first class or urban-county government.

- (1) A person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the Department of Corrections and all persons supervised pursuant to KRS 439.560 shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release.
- (2) The fees shall be as follows:
 - (a) For a felony, not less than ten dollars (\$10) per month while on active supervision nor more than two thousand five hundred dollars (\$2,500) per year.
 - (b) For a misdemeanor, not less than ten dollars (\$10) per month while on active supervision nor more than five hundred dollars (\$500) per year, except as provided in subsection (13) of this section.
- (3) The releasing authority shall order the fee paid in a lump sum or installments. If the fee is to be paid in a lump sum, the person shall not be released from custody until the fee is paid in full.
- (4) Upon the failure of a person to pay an installment on a fee set forth in a release agreement, the releasing authority shall hold a hearing to determine why the installment has not been paid. Failure without good cause to pay an installment pursuant to a release agreement shall be grounds for the revocation of probation, parole, conditional release, or other form of release upon which the person has been released as provided in KRS 533.050.
- (5) The releasing authority shall hold a hearing to determine the ability of the defendant to make the payments; and in making this determination, the releasing authority shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. In counties containing a city of the first class or an urban-county form of government, the releasing authority may waive the payment of the fee in whole or in part for defendants placed under the supervision of the adult misdemeanant probation and work release program, if it finds that any of the factors in subsection (6) of this section exist.
- (6) The releasing authority shall not waive any fee unless the commissioner of the Department of Corrections or his designee petitions the releasing authority in written form for the waiver. The Department of Corrections shall not petition unless:
 - (a) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of student status shall be supplied to the releasing authority by the educational institution in which the offender is enrolled. In such case, the fee may be postponed until completion of education but shall be paid thereafter.
 - (b) The offender has an employment disability, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the releasing authority.
- (7) At any time during the pendency of the judgment or order rendered according

to the terms of this section, a defendant may petition the releasing authority to modify or vacate its previous judgment or order on the grounds of change of circumstances with regard to the defendant's ability to pay the fee. The releasing authority shall advise the defendant of this right at the time of the rendering of the judgment or order placing the defendant on probation, parole, or other supervised release.

- (8) All sums paid by the defendant pursuant to this section shall be paid into the general fund, except as provided in subsection (13) of this section.
- (9) When granting a release of any defendant by way of probation, parole, or otherwise, the releasing authority shall make the payment of this fee a condition of release, unless the fee has been waived, reduced, or delayed as provided in this section. Nonpayment shall be grounds for revocation of the release as provided in KRS 533.050.
- (10) The releasing authority, if the Department of Corrections petitions the releasing authority to modify the fee, shall consider the petition and may waive the payment of the fee in whole or in part, delay payment of the fee, increase the fee, or deny the petition.
- (11) All fees fixed under the provisions of this section shall be collected by the circuit clerk of the county where the defendant is supervised, except as provided in subsection (13) of this section.
- (12) The Department of Corrections and the Division of Probation and Parole shall, for each person released under its supervision, keep an account of all payments made and report delinquencies to the releasing authority.
- (13) In a city, county, consolidated local government, charter county, or an urban-county government, persons placed by a releasing authority on probation, parole, or other release subject to supervision by the adult misdemeanor probation and work release program of the county, city, consolidated local government, charter county, or urban-county government shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. The fees shall be assessed by the releasing authority in accordance with the provisions of this section. The fee for a misdemeanor defendant placed under the supervision of an adult misdemeanor probation and work release program of a county, city, consolidated local government, charter county, or an urban-county government shall be not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) per year. All sums paid by the defendant under this subsection shall be paid into the general fund of the county, city, consolidated local government, charter county, or urban-county government in lieu of the payment specified in subsection (8) of this section. All fees fixed under this subsection shall be collected by the circuit clerk of the county or urban-county involved. The adult misdemeanor probation and work release program of the county, consolidated local government, city, charter county, or urban-county government shall, for each person released under its supervision, keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk, and report delinquencies to the court.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 346, sec. 234, effective July 15, 2002. --

Amended 1998 Ky. Acts ch. 286, sec. 1, effective July 15, 1998; and ch. 606, sec. 112, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 405, sec. 88, effective July 15, 1994; and ch. 418, sec. 11, effective July 15, 1994. Amended 1992 Ky. Acts ch. 211, sec. 95, effective July 14, 1992; and ch. 335, sec. 1, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 377, sec. 2, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 156, sec. 1, effective July 13, 1984. -- Created 1982 Ky. Acts ch. 416, sec. 1, effective July 15, 1982.