

439.3108 Modification of conditions of community supervision -- Department to reimburse local correctional or detention facilities or residential centers -- Imposition of graduated sanctions.

- (1) Notwithstanding any administrative regulation or law to the contrary, including KRS 439.340(3)(b), the department or board may:
 - (a) Modify the conditions of community supervision for the limited purpose of imposing graduated sanctions;
 - (b) Place a supervised individual who is on probation who violates the conditions of community supervision in a state or local correctional or detention facility or residential center for a period of not more than ten (10) days consecutively, and not more than sixty (60) days in any one (1) calendar year. The department shall reimburse the local correctional or detention facility or residential center for the costs of incarcerating a person confined under this paragraph at the rate specified in KRS 532.100;
 - (c) Place a supervised individual serving a period of parole or post-release supervision from prison or jail who violates the conditions of community supervision in a state or local correctional or detention facility or residential center for a period of not more than thirty (30) days consecutively, and not more than sixty (60) days in any one (1) calendar year. The department shall reimburse the local correctional or detention facility or residential center for the costs of incarcerating a person confined under this paragraph at the rate specified in KRS 532.100; and
 - (d) Notwithstanding paragraphs (b) and (c) of this subsection, place any supervised individual who violates the conditions of community supervision in a state or local correctional or detention facility or residential center for the period of time a supervised individual awaits admission to a residential alcohol or substance use treatment program. The department shall reimburse the local correctional or detention facility or residential center for the costs of incarcerating a supervised individual serving a period of parole or post-release supervision confined under this paragraph at the rate specified in KRS 532.100.
- (2) A probation and parole officer intending to modify the conditions of community supervision by imposing a graduated sanction shall issue to the supervised individual a notice of the intended sanction. The notice shall inform the supervised individual of the technical violation or violations alleged, the date or dates of the violation or violations, and the graduated sanction to be imposed.
- (3) The imposition of a graduated sanction or sanctions by a probation and parole officer shall comport with the system of graduated sanctions adopted by the department under KRS 439.3107. Upon receipt of the notice, the supervised individual shall immediately accept or object to the sanction or sanctions proposed by the officer. The failure of the supervised individual to comply with a sanction shall constitute a violation of community supervision.
- (4) If the supervised individual objects to the imposition of the sanction or sanctions,

then:

- (a) If the supervised individual is serving a period of parole or post-release supervision from prison or jail, then the administrative process promulgated under KRS 439.3107(3) shall apply; or
 - (b) If the supervised individual is on probation, then the provisions of KRS 533.050 shall apply.
- (5) If the graduated sanction involves confinement in a correctional or detention facility:
- (a) Confinement shall be approved by the probation and parole district supervisor, but the supervised individual may be taken into custody for up to four (4) hours while such approval is obtained;
 - (b) If the supervised individual is employed, the probation and parole officer shall, to the extent feasible, impose this sanction on weekend days or other days and times when the supervised individual is not working; and
 - (c) The supervised individual may be placed on work release for work at his or her place of employment.
- (6) A sanction that confines a supervised individual in a correctional or detention facility for a period longer than authorized under subsection (1) of this section, or extends the term of community supervision, shall not be imposed as a graduated sanction, except pursuant to an order of the court or the board.
- (7) Upon successful completion of a graduated sanction or sanctions, a court may not revoke the term of community supervision or impose additional sanctions for the same violation.
- (8) If a probation and parole officer modifies the conditions of community supervision by imposing a graduated sanction, the officer shall:
- (a) Deliver a copy of the modified conditions to the supervised individual;
 - (b) File a copy of the modified conditions with the sentencing court or releasing authority; and
 - (c) Note the date of delivery of the copy in the supervised individual's file or case management system.

Effective: July 15, 2020

History: Amended 2020 Ky. Acts ch. 44, sec. 4, effective July 15, 2020. -- Amended 2017 Ky. Acts ch. 158, sec. 14, effective June 29, 2017. -- Created 2011 Ky. Acts ch. 2, sec. 62, effective June 8, 2011.