

**533.274 Eligibility for admission into pilot program.**

- (1) In addition to the pretrial diversion program established under KRS 533.250 to 533.260, and the deferred prosecution program established under KRS 218A.14151, a behavioral health conditional dismissal program shall be operated in each county participating in the pilot program established under KRS 533.272. The behavioral health conditional dismissal program shall:
  - (a) Provide eligible persons, on an equal basis, an alternative to ordinary prosecution for qualifying offenses arising from a behavioral health disorder by receiving early recovery services and treatment reasonably expected to deter future criminal behavior; and
  - (b) Provide an expedited alternative to prosecution for eligible persons who may be harmed by the imposition of criminal sanctions in the absence of the alternative when the alternative is reasonably expected to serve as a sufficient deterrent to criminal conduct.
- (2) The program may be utilized by any person:
  - (a) Who is a resident of the Commonwealth and who is at least eighteen (18) years of age;
  - (b) Whose clinical assessment indicates the presence of a behavioral health disorder;
  - (c) Charged with a qualifying offense;
  - (d) Who does not have a previous conviction for a Class A, B, or C felony, or a Class D felony or misdemeanor that is not a qualifying offense; and
  - (e) Who has been assessed by pre-trial services as a low-risk, low-level offender, or has been otherwise determined by the attorney for the Commonwealth or the attorney for the defendant as a viable participant in the program.
- (3) Other factors that may be considered for admission into the behavioral health conditional dismissal program include but are not limited to:
  - (a) The likelihood that the applicant's offense is related to a behavioral health disorder that would be conducive to change through his or her participation in a behavioral health treatment program;
  - (b) The availability of behavioral health treatment programs in the defendant's county of residence if different from the county of arrest;
  - (c) The history of any physical violence toward others as documented through judicial or law enforcement records;
  - (d) Any involvement of the applicant with organized crime under KRS 506.120; and
  - (e) Whether or not the applicant's participation in a behavioral health treatment program would adversely affect the prosecution of codefendants.
- (4) Eligible defendants in pretrial confinement shall be given preference for participation in the behavioral health conditional dismissal program.
- (5) Eligible defendants who have charges pending but are not in custody shall be

assessed for participation in the behavioral health conditional dismissal program as provided under KRS 533.276(1)(d).

**Effective:** July 14, 2022

**History:** Created 2022 Ky. Acts ch. 230, sec. 3, effective July 14, 2022.