


 Filed: 2025-CA-0939 03/06/2026
 Kate R. Morgan, Clerk
 Kentucky Court of Appeals

COMMONWEALTH OF KENTUCKY
 COURT OF APPEALS
 No. 2025-CA-0939

Electronically Filed

COMMONWEALTH OF KENTUCKY,
ex rel. Attorney General Russell Coleman, et al.

Appellants

v. On Appeal from
 Franklin Circuit Court
 No. 25-CI-00193

TOBY BERRY, on behalf of himself and a
 certified class,

Appellees

* * *

RAP 20(C)(2) MOTION FOR INTERMEDIATE RELIEF

The Commonwealth, through Attorney General Coleman, respectfully moves under RAP 20(C)(2) for a stay pending appeal of the circuit court’s February 18 final judgment granting the plaintiff class a permanent injunction.

That injunction bars the Kentucky Department of Corrections from applying the increased parole-eligibility requirements in the Safer Kentucky Act to Toby Berry and approximately 319 other convicted criminals. Because the circuit court declined to stay its order while the Commonwealth and DOC appealed, *242 of those inmates* are suddenly eligible for parole. *See* Commonwealth’s Chart (chart listing all inmates whose parole eligibility will be affected by the

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circuit court's judgment) (attached as Exhibit B). These individuals have committed some of the most serious crimes in the Kentucky Revised Statutes, including manslaughter, rape, strangulation, and kidnapping. The Commonwealth believes this Court will have no trouble reversing the circuit court's judgment on the merits. But by the time this case is fully briefed, argued, and decided, many of these violent offenders may have already been released back into Kentucky communities. Thus, this is the quintessential case where a stay pending appeal to preserve the status quo is warranted.

As the Commonwealth explains below, all the relevant factors for a stay are met here. The irreparable harm is clear: Absent a stay, violent offenders who should be confined under the plain terms of the Safer Kentucky Act may be released into the public. For the same reason, the public—whose safety will be at risk if these violent offenders are prematurely released—has a strong interest in a stay. The circuit court's ruling was also wrong on the law; the Safer Kentucky Act plainly applies to the plaintiff class members and is not being applied as an unconstitutional *ex post facto* law. Given the potentially dangerous consequences of allowing the circuit court's order to remain in effect, the Court should grant a stay under RAP 20(C)(2) while it gives careful consideration to this appeal.

BACKGROUND

2024 House Bill 5, also known as the Safer Kentucky Act, made many changes to Kentucky’s criminal laws and took effect on July 15, 2024. *See generally* 2024 Ky. Acts ch. 174. As relevant here, it expanded the definition of “violent offender” to include several additional offenses, such as first-degree strangulation (one of Berry’s crimes), and changed the parole eligibility for convicted violent offenders. *See id.* § 32 (amending KRS 439.3401). Before the Safer Kentucky Act went into effect, individuals convicted of those offenses could become parole eligible after serving only 20% of their sentences. But since the Safer Kentucky Act has gone into effect, those violent offenders can become parole eligible only after serving 85% of their sentences. In this simple, sensible way, the Safer Kentucky Act ensures that individuals convicted of violent crimes are not prematurely released into the public.

Toby Berry, the lead plaintiff here, is one such violent offender. On May 24, 2024, Berry entered a negotiated guilty plea to second-degree assault, first-degree strangulation, and first-degree unlawful imprisonment. *See* Opinion and Order, *Toby Berry, on behalf of himself and a certified class vs. Kentucky Department of Corrections et al.*, No. 25-CI-193, (Franklin Cir. Ct. Feb. 18, 2026) at 1 (“Feb. 18 Opinion”) (attached as Exhibit A). In a second case, he pleaded guilty to first

and second-degree promoting contraband. *Id.* Under his plea agreements, he agreed to a sentence of ten years. *Id.* On August 6, 2024, the trial court sentenced Berry in accordance with his plea agreements. *Id.*

When Berry committed his offenses (before he pleaded guilty on May 24, 2024), they carried 20% parole eligibility. The Safer Kentucky Act became effective that summer (July 15, 2024). So at the time of his sentencing (August 6, 2024), Berry’s offenses carried 85% parole eligibility. Consistent with the statutory text, the Department of Corrections (“DOC”) has applied the Safer Kentucky Act’s parole-eligibility requirements at the time of sentencing. Thus, because Berry was a violent offender, he is required to serve 85% of his sentence before becoming parole eligible.

Berry filed a declaratory-judgment petition contesting the Safer Kentucky Act being applied to him. *Feb. 18 Opinion* at 2. He also requested class certification, which the circuit court granted in July 2025. *Id.* at 3. The appeal from that class-certification decision is fully briefed before this Court. *Commonwealth ex rel. Coleman v. Berry*, No. 2025-CA-0939 (Ky. App.). In the meantime, on February 18, 2026, the circuit court issued its *Opinion* granting Berry’s motion for judgment on the pleadings—on behalf of himself and over

300 members of his certified class, which he alleges is growing by the day. *Feb. 18 Opinion* at 1–23.

The circuit court supported its order with two main conclusions. First, the circuit court held that DOC erred in its application of the Safer Kentucky Act. *Id.* at 4–11. Drawing distinctions between this case and the cases cited by each party, the circuit court reasoned that Berry’s issue had never been squarely presented to, or decided by, Kentucky’s courts. *Id.* at 7–8. So the circuit court reasoned that it should turn to legislative intent, looking into DOC’s actions with respect to previous iterations of the statute and asking whether the legislature had “evinced an intent to depart from the existing statutory interpretation.” *Id.* at 10. Finding no such express permission from the legislature, the circuit court held that DOC’s application of the new amendment was in error.

And second, the circuit court concluded that DOC applied the Safer Kentucky Act in a way that violated (1) prohibitions on retroactive penal statutes and (2) the Kentucky and United States bars on *ex post facto* laws. *Feb. 18 Opinion* at 11–21. Reasoning that the Safer Kentucky Act was “penal in nature” and generally “changed the legal consequences of [an inmate’s] offense,” the circuit court concluded that the act “falls within the prohibition on *ex post facto* punishments.” *Id.* at 12, 15. And the circuit court found that “DOC’s application

of the amendment to the Plaintiffs after the commission of their offense is an *ex post facto* violation.” *Id.* at 21.

The Commonwealth of Kentucky, *ex rel.* Attorney General Russell Coleman, immediately appealed that ruling.¹ It also sought a stay pending appeal in the circuit court under RAP 20(C)(1). The circuit court denied the Commonwealth’s motion on March 2, 2026. *See* Opinion and Order Denying Stay Pending Appeal, *Toby Berry, on behalf of himself and a certified class vs. Kentucky Department of Corrections et al.*, No. 25-CI-193 (Franklin Cir. Ct. Mar. 2, 2026) (“Mar. 2. Order Denying Stay”) (attached as Exhibit C). The Commonwealth promptly filed this motion under RAP 20(C)(2).

ARGUMENT

After an appeal has been taken from a final judgment granting a permanent injunction, RAP 20(C)(2) allows an adversely affected party to seek a stay of that order pending appeal. Such a motion is governed by the familiar *Maupin* factors. *Maupin v. Stansbury*, 575 S.W.2d 695, 699 (Ky. App. 1978); *see also* *Rogers v. Lexington-Fayette Urb. Cnty. Gov’t*, 175 S.W.3d 569, 570–71 (Ky. 2005). Specifically, a stay pending appeal is warranted when (1) the movant will be

¹ While neither the Commonwealth nor the Attorney General were originally named as parties, the Attorney General moved, and was permitted, to intervene under KRS 418.075 to defend HB 5.

irreparably harmed absent relief; (2) the movant's position presents a substantial question on the merits; and (3) the stay is not inequitable. *Maupin*, 575 S.W.2d at 699; *see also Pollitt v. Pub. Serv. Comm'n*, 552 S.W.3d 70, 73 (Ky. 2018) (citation omitted). Each factor decidedly favors interlocutory relief here.

I. The Commonwealth will be irreparably harmed without a stay.

This first factor—irreparable harm—favors the Commonwealth for two reasons. First, declining to stay the circuit court's judgment may result in the premature release of hundreds of violent offenders, putting countless Kentuckians at risk. And second, the Commonwealth suffers irreparable harm when it is enjoined from enforcing a duly enacted law as written.

Start with the threat to public safety. The plaintiff class members are all violent offenders who have been convicted of some of the most serious offenses under Kentucky law. For reference, the Commonwealth has attached a chart of the 319 inmates who could be released early because of the circuit court's order. *See* Ex. B.² The offenses committed by these individuals demonstrate the gravity

² This chart is for illustrative purposes only—to quickly familiarize this Court with the scope and type of the convictions that now constitute violent offenses under the Safer Kentucky Act. The Commonwealth has listed convictions and other information based on publicly available information. The chart was therefore assembled with an eye to the time-sensitive nature of this motion and is not meant to be a definitive list of convictions for any particular offender.

of the situation. Some offenders have committed only one crime with one victim. Some have committed multiple crimes with multiple victims. That means that hundreds or even thousands of victims across the Commonwealth may soon receive stomach-dropping notifications—that the criminals who committed violent acts against them are being released on parole years earlier than they should be.

Appellate courts often stay a lower court judgment that would release a *single* violent offender. The U.S. Supreme Court has held that when a court considers a stay pending appeal of a grant of habeas relief, a prematurely released prisoner’s “possibility of flight should be taken into consideration.” *Hilton v. Braunskill*, 481 U.S. 770, 777 (1987). Likewise, the “risk that the prisoner will pose a danger to the public if released” may be “taken into consideration.” *Id.* “The State’s interest in continuing custody and rehabilitation pending a final determination of the case on appeal is also a factor to be considered” *Id.* Following this guidance, courts often stay orders releasing inmates while their claims are considered on appeal. *See, e.g., Workman v. Tate*, 958 F.2d 164, 166 (6th Cir. 1992) (holding that the “possibility of the petitioner fleeing or posing a danger to the public, as well as the state’s interest in continuing his rehabilitation, could mi[litate] against the release of a successful habeas petitioner pending

appeal” (citation omitted)); *Balfour v. Lafler*, No. 2:05-CV-72189, 2014 WL 5311454, at *2 (E.D. Mich. Oct. 17, 2014) (“The Court also agrees that given the nature of Petitioner’s crime—for which there is little question of his factual guilt—Petitioner poses a threat to other members of the public.”).

The potential harm is even greater here because the circuit court’s order makes *242 violent offenders immediately eligible for parole*. The circuit court dismissed the possibility of harm as “wholly speculative,” citing statistics “showing that only 1 in 10 inmates are released after the initial Parole Board hearing.” *Mar 2. Order Denying Stay* at 4. But even accepting that data means approximately 24 or so violent offenders will be released at their first parole board hearing under the circuit court’s judgment. It is not speculative to infer future dangerousness from the violent nature of an inmate’s past crimes. *See, e.g., Ruelas v. Wolfenbarger*, No. 06-CV-11994, 2009 WL 10704254, at *2 (E.D. Mich. Aug. 19, 2009); *Balfour*, 2014 WL 5311454, at *2. So even under the circuit court’s conservative forecasts of premature release, there is a strong chance of irreparable harm to public safety.

These public safety concerns are not the only harm the Commonwealth will suffer absent a stay. It is black-letter law that failure to enforce Kentucky’s duly enacted laws itself constitutes irreparable harm. “[N]on-enforcement of a duly-enacted statute constitutes irreparable harm to the public and the

government.” *Cameron v. Beshear*, 628 S.W.3d 61, 73 (Ky. 2021) (citation omitted). That’s because whenever the General Assembly passes a law, it makes an “‘implied finding’ that the public will be harmed if the statute is not enforced.” *Id.* at 78 (citation omitted). Because “[d]uly adopted legislation is entitled to a presumption of validity,” *Hays v. State Prop. & Buildings Comm’n*, 731 S.W.2d 797, 799 (Ky. 1987), its non-enforcement diminishes the “power and dignity” of the General Assembly and is “injurious and harmful to the government and the community it serves,” *Boone Creek Properties, LLC v. Lexington-Fayette Urb. Cnty. Gov’t Bd. of Adjustment*, 442 S.W.3d 36, 40 (Ky. 2014). That harm alone justifies a stay. *See Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C. J., in chambers) (quoting *New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351 (1977) (Rehnquist, J., in chambers) (“[A]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.”)).

The circuit court dismissed this concern, claiming that its order barred only DOC’s *interpretation* of the Safer Kentucky Act, not the Safer Kentucky Act itself. That hair-splitting distinction does not cure the irreparable harm to the Commonwealth. Implicit in the Commonwealth’s duty to enforce the laws is the duty to enforce the laws *as written*. So when a court prevents the State from

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enforcing a law as the legislature wrote it, it is no different than preventing the State from enforcing the law in toto. *Cf. Commonwealth v. Chestnut*, 250 S.W.3d 655, 661 (Ky. 2008) (“We must interpret statutes as written, without adding any language to the statute.” (footnote omitted)). Every day DOC is barred from applying the statute as written constitutes irreparable harm to the Commonwealth and to its citizens.

The Kentucky Supreme Court has already intimated as much in an earlier iteration of this case. After the circuit court certified the plaintiff class in this case, this Court stayed the underlying matter pending resolution of the class-certification appeal. Although the Supreme Court vacated that stay, it noted that the circuit court “has not issued an injunction against the enforcement of HB 5.” *Berry v. Commonwealth ex rel. Coleman*, No. 2025-SC-0347-I, 2025 WL 2999097, at *3 (Ky. Oct. 23, 2025). The circuit court has now taken that consequential step. As the Kentucky Supreme Court noted, such an injunction creates a presumption of irreparable harm. *Id.* Nothing said in the circuit court’s opinion can overcome that presumption, especially given the very real public-safety concerns discussed above.

* * *

In sum, a stay pending appeal would preserve the status quo in two key ways. It would ensure that hundreds of violent offenders remain incarcerated while the Court considers the merits of this appeal. And it would ensure that DOC's and the Commonwealth's interpretation of the Safer Kentucky Act—which is most faithful to the text passed by the General Assembly—is not subverted.

II. There is a substantial question on the merits.

The second factor also favors the Commonwealth. The irreparable harm the Commonwealth faces is compounded by the substantial question presented on the merits. That's because the Commonwealth has strong arguments rebutting both points stressed by the circuit court in its order: DOC didn't err in applying the Safer Kentucky Act, and DOC hasn't applied the Safer Kentucky Act in a way that violates constitutional bars on ex post facto laws.

A. DOC didn't err in applying the Safer Kentucky Act to offenses committed, but not sentenced, before its effective date.

The Franklin Circuit Court wrongly held that DOC erred in applying the Safer Kentucky Act's stricter parole eligibility limits at the time of an offender's sentencing, rather than those in effect at the time of the offense. *Feb. 18. Opinion* at 11. Drawing distinctions between this case and the cases cited by each party, the circuit court reasoned that Berry's issue had never been squarely presented

to Kentucky's courts. *Id.* at 7–8. The circuit court reasoned that it should turn to legislative intent, asking whether the legislature had “evinced an intent to depart from the existing statutory interpretation.” *Id.* at 10. It took a strained approach—comparing various amendments and looking into where, or whether, the legislature may, or may not, have intended to authorize various ways in which the statute could have been implemented. But DOC can support its application of the Safer Kentucky Act simply by using the statute's plain text.

1. DOC's application is supported by the plain text of the statute.

The plain text of the Safer Kentucky Act compels DOC's interpretation. First, the whole of KRS 439.3401, as amended, applies to “those persons who commit[ted] offenses after July 15, 1998.” KRS 439.3401(7). We know that's true because subsection (7) of the act reads: “This *section* shall apply only to *those persons who commit offenses after July 15, 1998.*” *Id.* (emphases added). The “section” the law stresses is the whole of KRS 439.3401—a “section” of the Kentucky Revised Statutes. *Cf.* KRS 439.3401(9) (referring to a specific “subsection” of KRS 439.3401).

Second, within that larger group of offenders who have committed offenses after July 15, 1998, the act's parole-eligibility requirements apply to “violent offenders.” Under KRS 439.3401, a person becomes a “violent

offender” after (1) being convicted of a violent offense, *and* (2) receiving “a sentence of a term of years.” KRS 439.3401(1)–(4). That “sentence of a term of years” can be given only at *sentencing*. So an individual becomes a “violent offender” who is subject to the Safer Kentucky Act’s parole-eligibility requirements only after being both (1) convicted *and* (2) sentenced. *See id.*

Putting these textual commands together, DOC has faithfully applied the Safer Kentucky Act’s amendment to KRS 439.3401. Consider the named representative of the class: Toby Berry met the statute’s requirements. He “commit[ted] [his] offenses after July 15, 1998.” KRS 439.3401(7). He was a “violent offender.” KRS 439.3401(1). And after sentencing, he had “a sentence of a term of years.” KRS 439.3401(4). So under the statute’s plain terms, he “shall not be released . . . until he . . . has served at least eighty-five percent (85%) of the sentence imposed.” *Id.* The same can be said of the rest of Berry’s purported class. DOC’s application of the amended statute to Berry is dictated by its text.

This being so, the plain terms of the Safer Kentucky Act, not DOC’s past conduct, determines when Berry and the plaintiff class become parole eligible. It follows that the Franklin Circuit Court’s contrary conclusion is unlikely to stand up on appeal. At the very least, there is a substantial question on this issue.

B. DOC hasn't applied the Safer Kentucky Act in a way that violates the constitutional bars on ex post facto laws.

The Franklin Circuit Court's order also determined that DOC's application of the Safer Kentucky Act runs afoul of (1) prohibitions on retroactive penal statutes, and (2) the Kentucky and United States bars on ex post facto laws. *Feb. 18 Opinion* at 11–21. That's not correct. The simple truth is that Berry and his class disagree with the policy decisions made by the General Assembly about parole eligibility for violent offenders. But their disagreement doesn't render the act unconstitutional, and again, the Commonwealth has a strong argument in opposition.

Before considering the Commonwealth's merits arguments, it cannot be forgotten that Kentucky courts must presume that the Safer Kentucky Act is in fact constitutional. *See Cameron*, 628 S.W.3d at 73–74. That presumption, which follows from Kentucky's separation of powers, makes clear that the Commonwealth has more than established a substantial question as to the legality of the Safer Kentucky Act.

1. DOC's application of the Safer Kentucky Act does not violate KRS 446.110.

KRS 446.110, which bars new penal statutes from being applied retroactively, does not affect KRS 439.3401 (our section in question). KRS

439.3401 is a probation and parole-eligibility statute, not a penal statute. Because it doesn't relate to a penalty, forfeiture, or punishment, KRS 446.110 is not implicated at all. *See Lynch v. Wingo*, 425 S.W.2d 573, 574 (Ky. 1968) (“We do not think KRS 446.110 was intended to prevent the legislature from withdrawing a pure act of grace when it was under no obligation to grant such grace in the first place.”). Because of this separation between parole and penal statutes, “[t]here is no connection between KRS 446.110 and KRS Chapter 439.” *Carr v. Kentucky Parole Bd.*, 2012-CA-001022-MR, 2013 WL 1488507, at *2 (Ky. App. Apr. 12, 2013) (nonbinding).

The amendments here neither create crimes nor set punishments. Berry's relevant crime (first-degree strangulation) remains unchanged, as does its punishment (five to ten years in prison). The only change was Berry's parole eligibility. That's also true for the class members. Allowing parole after serving 20% of a sentence was legislative grace. Under *Lynch*, withdrawing that grace and replacing it with 85% parole eligibility does not implicate KRS 446.110. *See Lynch*, 425 S.W.2d at 574.

The circuit court cited a U.S. Supreme Court case to try to overcome *Lynch*. In *Ellingburg v. United States*, 146 S. Ct. 564 (2026), the defendant challenged a restitution law enacted between his conviction and sentencing. The enactment

of the restitution law meant that the trial court added thousands of dollars in restitution to the defendant's sentence. But that case has no bearing here. Being required to pay more money in restitution plainly is a criminal punishment, as the U.S. Supreme Court explained. *See id.* at 567 (“Restitution under the MVRA is plainly criminal punishment for purposes of the Ex Post Facto Clause.”).³ So *Ellingburg* does nothing to undermine *Lynch*. DOC's application does not violate Kentucky statutes or case law.

2. DOC's application of the Safer Kentucky Act does not violate the constitutional bar on ex post facto laws.

The circuit court's constitutional holding runs headlong into binding precedent. The Kentucky Supreme Court has unmistakably held that an increase in parole eligibility does *not* violate the ex post facto bar because it “does not necessarily elongate [a defendant's] sentence.” *Pate v. Dep't of Corr.*, 466 S.W.3d

³ The circuit court also cited *Commonwealth v. Pridham*, 394 S.W.3d 867 (Ky. 2012), to assert that a change in parole eligibility is a punitive measure—and thus falls under KRS 446.110's retroactivity ban according to *Ellingburg*. But *Pridham* speaks of parole ineligibility as punitive only in the context of whether an attorney's incorrect advice on the subject constituted ineffective assistance of counsel. *Id.* at 878–79. Even if this Court were to apply the inapposite standard in *Ellingburg*, *Pridham*'s holding about what counts as “punitive” or a “punishment” is only about whether “parole ineligibility is a serious enough and certain enough detriment that a person pleading guilty is entitled to know about it.” *Pridham*, 394 S.W. at 878. *Pridham* did not discuss or apply KRS 446.110. It also did not discuss the punitive nature of the statute in other contexts, such as if it violated the Ex Post Facto Clause—which will be discussed below.

480, 487 (Ky. 2015), *overruled in part on other grounds by Lee v. Kentucky Dep't of Corr.*, 610 S.W.3d 254 (Ky. 2020). In *Pate*, the defendant was reclassified as a violent offender, and while the court recognized the negative effect of this reclassification, it stressed that a defendant “does not have a right to parole, nor is parole guaranteed.” *Id.* (citation omitted). And *Pate* isn’t an outlier. Kentucky’s appellate courts have consistently held that such parole-eligibility changes are not *ex post facto* laws. *See Stewart v. Commonwealth*, 153 S.W.3d 789, 793 (Ky. 2005); *Garland v. Commonwealth*, 997 S.W.2d 487, 489–90 (Ky. App. 1999).

The Kentucky Supreme Court has even addressed an earlier, similar expansion of the 85%-parole-eligibility class—the 2006 amendment to KRS 439.3401, which added use of a minor in a sexual performance to the list of violent offenses. *See Steitz v. Commonwealth*, No. 2008-SC-000108-MR, 2009 WL 3526655, at *3–4 (Ky. Oct. 29, 2009) (nonbinding). In *Steitz*, the updated law increased parole eligibility for an offense that had been committed before the amendment’s effective date. The Court decisively rejected the argument that this was an *ex post facto* law: “[T]here is no right to parole, and a condition precedent to parole eligibility does not make a sentence more onerous. Unlike longer post-release conditional discharge, there is no increase in Appellant’s total sentence. *Therefore, the amendment to KRS 439.3401 does not create an impermissible ex post facto*

law.” Id. at *4 (internal citation omitted) (emphasis added). The Court even reiterated: “A retroactive increase in time before being eligible for parole, or additional conditions placed on parole eligibility, do not implicate the ex post facto clause, because there is no right to parole, and therefore no increased punishment.” *Id.* at *3.

In its order, the circuit court cited a handful of U.S. Supreme Court cases for the proposition that DOC’s interpretation of the Safer Kentucky Act creates an unconstitutional ex post facto law. One is *California Department of Corrections v. Morales*, 514 U.S. 499 (1995). But that case favors the Commonwealth. In *Morales*, the defendant pleaded *nolo contendere* for the 1980 murder of his wife and received a sentence of 15 years to life. *Id.* at 502. He became parole eligible in 1990. *Id.* But California law had been amended in 1981 to allow the parole board to defer hearings under certain circumstances applicable to *Morales*, and in his case, the board did so. *Id.* *Morales* contested the amendment, asserting that it was ex post facto as applied to his situation. *Id.* at 504. The U.S. Supreme Court, however, held that the amendment’s application to prisoners who committed their crimes before it was enacted was not a violation of the Ex Post Facto clause. *Id.* at 513. It didn’t increase the punishment attached to his crime, but simply altered the method to be followed in fixing his parole date. *Id.* at 509. And the U.S. Supreme

Court objected to forbidding “any legislative change that has any conceivable risk of affecting a prisoner’s punishment,” explaining that it has “never accepted this expansive view of the *Ex Post Facto* clause” and would not take Morales’s case as a chance to endorse it. *Id.* at 508.

The circuit court tried to distinguish *Morales* from this case, explaining that the Safer Kentucky Act “is specifically aimed at increasing the punishment for certain crimes by lengthening the amount of time that an individual convicted of that crime must spend behind bars.”⁴ *Feb. 18 Opinion* at 16. But that’s not correct. A change in parole eligibility *might* lengthen the time in prison, but there is never a guarantee that the inmate would have been paroled earlier under the previous statute. Eligibility for parole does not guarantee receiving parole. Because the eligibility change “creates only the most speculative and attenuated risk of increasing the measure of punishment”—that is, the time actually served—it cannot violate the Ex Post Facto Clause. *Morales*, 514 U.S. at 514.

Another case the circuit court brought up is *Rodgers v. Commonwealth*, 285 S.W.3d 740, 751 (Ky. 2009). Yes, that case says that “amendments to penalty provisions,” including those “creating terms of imprisonment, [or] periods of

⁴ This part of the circuit court’s ruling undermines its later contention that the Commonwealth is speculating about violent offenders being released earlier because of the circuit court’s holding.

probation or parole,” cannot be applied retroactively unless the defendant consents to them and they are mitigating. *Id.* at 751. But that wasn’t a holding. Even if it were, *Rodgers* might only extend to a statute increasing the period of parole, which would amount to creating a period of parole—and that did not happen here. Statutes affecting parole *eligibility* do not create or expand the period of parole. Instead, they simply establish when a person becomes eligible for parole while serving a sentence.

Similarly, the circuit court brought up *Weaver v. Graham*, 450 U.S. 24 (1981), and *Garner v. Jones*, 529 U.S. 244 (2000). But neither case makes the Safer Kentucky Act unconstitutional. *Weaver* addressed the withdrawal of mandatory gain-time credits and did so under the rule that the change need only “disadvantage” the inmate. 450 U.S. at 33–34. But *Weaver*’s disadvantage rule no longer applies; instead, the change must “increase[] the penalty by which a crime is punishable.” *Morales*, 514 U.S. at 506 n.3; *see also Martin*, 122 S.W.3d at 547 (describing *Weaver*’s disadvantage language as dicta and recognizing *Morales* as the proper standard). Unlike mandatory sentence credits, removal of which actually lengthens the time an inmate spends in prison, a change in parole eligibility only *might* lengthen that time. Eligibility for parole does not guarantee receiving parole.

Garner is similarly inapposite. It addressed a law permitting the intervals between parole considerations to be extended and disagreed with the lower court’s finding that such a law necessarily created an Ex Post Facto violation. *Garner*, 529 U.S. at 246. *Garner* also rejected the proposition that the change in the law “‘seem[ed] certain’ to result in some prisoners serving extended periods of incarceration,” and held instead that “*Morales* requires a more rigorous analysis of the level of risk created by the change in law.” *Garner*, 529 U.S. at 255. Berry would have to show that, as applied to his own sentence, the Safer Kentucky Act created a longer period of incarceration. Again, he cannot do so. The parole he demands has never been guaranteed. A change in parole eligibility may, or may not, lengthen his time in prison—and that attenuated possibility does not violate the Ex Post Facto clause.

Finally, the circuit court cited *Peugh v. United States*, 569 U.S. 530 (2013). In that case, the defendant committed bank fraud in 1999 and 2000. *Id.* at 533. He was sentenced in 2009 but argued that he should be sentenced under the 1998 sentencing guidelines in effect at the time of his offense. *Id.* at 533–34. The entire opinion revolves around the U.S. Sentencing Guidelines and their advisory sentencing ranges for each defendant convicted in federal court. The *Peugh* opinion admits that “the Guidelines are no longer binding” and that a federal

trial court has significant discretion when sentencing. *Id.* at 536. The circuit court here is correct that the Ex Post Facto clause “reflects principles of ‘fundamental justice’”—but it’s not correct in determining that *Pugh* should apply to Berry’s case, or that there was any ex post facto violation here.

* * *

In sum, the Commonwealth has strong arguments that DOC didn’t err in its application of the Safer Kentucky Act and didn’t violate either KRS 446.110 or constitutional bars on ex post facto laws. It’s likely that this Court will appropriately reverse the circuit court’s order.

III. Balancing the equities, with public safety weighed against an act of legislative grace, favors the Commonwealth.

Finally, the third factor—balancing the equities—favors the Commonwealth. Releasing even one violent offender early would have serious public-safety implications. In contrast, while rehabilitation of inmates is a worthy goal, parole is never expressly guaranteed. When these interests are tested against each other, the safety of the public has to prevail.

The public’s interest is in enforcing the Safer Kentucky Act as written. *See Cameron*, 628 S.W.3d at 73 (noting that a “statute’s enactment constitutes an implied finding by the legislature that the public interest required it” (citing *Boone Creek Properties, LLC*, 442 S.W.3d at 40)). “In fact, non-enforcement of a duly-

enacted statute constitutes irreparable harm to the public and the government.” *Id.* Early release of even a few violent offenders is a foreseeable result of forcing DOC to immediately change its policy. And premature release of *any* inmates harms public safety. “[A]n injunction ought not to be granted where the benefit secured by it to the party applying therefore is comparatively small, while it will operate oppressively and to the great annoyance and injury of the other party and to the public.” *Hedgespeth v. Taylor Cnty. Fiscal Ct.*, 503 S.W.3d 141, 145 (Ky. 2016) (quoting *Kentucky Elec. Dev. Co.’s Receiver v. Wells*, 75 S.W.2d 1088, 1095 (Ky. 1934)).

On the other side of the ledger, the inmates in Berry’s purported class may remain without parole a while longer. But parole is, and always has been, an act of legislative grace. It is never guaranteed. *See Lynch*, 425 S.W.2d at 574 (holding that “[t]he grant of parole is not a right” and is, instead, “a matter of grace or gift to persons deemed eligible for good behavior or for other reasons fixed by the parole board”) And as our Supreme Court has made clear, the defendants here can claim no right to parole: “We do not think KRS 446.110 was intended to prevent the legislature from withdrawing a pure act of grace when it was under no obligation to grant such grace in the first place.” *Id.* The same reasoning would apply to a statute affecting parole eligibility—like the Safer Kentucky Act.

Allowing parole after serving 20% of a sentence is an act of legislative grace. Withdrawing that grace is well within the legislature's purview.

This Court must compare the public-safety implications that could arise from prematurely releasing even a single violent offender—let alone hundreds—to the offenders' interest in an act of legislative grace. In this balancing test, there's no question that public safety must prevail.

CONCLUSION

For these reasons, the Commonwealth asks this Court to grant intermediate relief staying the circuit court's February 18, 2026 *Opinion and Order* until the conclusion of the appeal.

Respectfully submitted by,

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CERTIFICATE OF SERVICE

I certify that on March 6, 2026, a copy of the above was filed electronically with the Court and served through the Court's electronic filing system on the following:

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APPENDIX

- A. Opinion and Order, *Toby Berry, on behalf of himself and a certified class vs. Kentucky Department of Corrections et al.*, No. 25-CI-193 (Franklin Cir. Ct. Feb. 18, 2026).
- B. Commonwealth's Chart.
- C. Opinion and Order Denying Stay Pending Appeal, *Toby Berry, on behalf of himself and a certified class vs. Kentucky Department of Corrections et al.*, No. 25-CI-193 (Franklin Cir. Ct. Mar. 2, 2026).



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Kate R. Morgan, Clerk

Kentucky Court of Appeals

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EXHIBIT A

Opinion and Order,
Toby Berry, on behalf of himself and a certified class
vs. Kentucky Department of Corrections et al.,
No. 25-CI-193 (Franklin Cir. Ct. Feb. 18, 2026)

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**COMMONWEALTH OF KENTUCKY
 48TH JUDICIAL CIRCUIT
 FRANKLIN CIRCUIT COURT
 DIVISION I
 CIVIL ACTION NO. 25-CI-00193**

**TOBY BERRY, ON BEHALF OF HIMSELF AND A
 CERTIFIED CLASS**

PLAINTIFF

v.

OPINION and ORDER

**KENTUCKY DEPARTMENT OF CORRECTIONS
 et al.**

DEFENDANTS

This matter is before the Court on Plaintiff Berry’s *Motion for Judgment* (filed August 11, 2025). The parties appeared before the Court during a motion hour hearing on August 27, 2025 at 9 AM. Having reviewed the parties’ briefs and papers, and being sufficiently advised on the matter, the Court hereby **GRANTS** the Plaintiff’s motion for judgment on the pleadings on behalf of himself and the certified class.

BACKGROUND

The facts are not in dispute in this case. Plaintiff Berry entered a negotiated guilty plea on May 24, 2024. Mr. Berry pled guilty to the offenses of Assault in the Second Degree, Strangulation in the First Degree, and Unlawful Imprisonment in the First Degree. That same day, Plaintiff Berry pled guilty to Promoting Contraband in the First Degree and Promoting Contraband in the Second Degree. As part of the plea agreement, Berry accepted the Commonwealth’s offer which stipulated that Berry would be eligible for parole when he had served 20% of his sentence.

In July 2024, HB 5, the “Safer Kentucky Act,” went into effect, which amended KRS 439.3401 to classify as a “violent offender” anyone who was convicted or pled guilty of a crime

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of, among others, strangulation in the first degree and promoting contraband in the first degree. KRS 439.3401(1)(b). Under the statute, a violent offender sentenced to a term of years is not eligible for probation, parole, conditional discharge, or other form of early release until he or she has served at least 85% of the sentence imposed. KRS 439.3401(4).

On August 6, 2024, Mr. Berry was sentenced to concurrent sentences for each guilty plea for a total of 10 years. Under the law that was in effect at the time of his offense and his guilty plea, Mr. Berry was eligible for parole at 20% of the time served, which for Mr. Berry, would have been at 2 years, including jail credit. Mr. Berry’s sentence began on August 2, 2024, and with 232 days of jail credit, he was eligible for parole in December 2025. After sentencing however, the Defendant Department of Corrections (“DOC”) classified Berry as a violent offender and set his parole eligibility at 85% of his sentence, or August 2031. This date was after his minimum sentence expiration date, which was calculated at April 7, 2031.

Mr. Berry challenged his classification through the grievance procedure established in CPP 17.4 and received responses indicating that he had exhausted his administrative remedies. Both responses informed him that since he was sentenced after HB 5 went into effect, he was required to serve 85% of his sentence before becoming eligible for parole. However, one response informed him that he was eligible to receive credits based on his crime committed date, and the classification would not affect his minimum date. Pl. Ex E, Prieskop Response. As noted in the paragraph above, Berry’s minimum expiration date was set at April 7, 2031, shortly prior to his parole eligibility date of August 2031.

The Plaintiff filed this action in Franklin Circuit Court to enforce the Court’s February 2025 Order requiring the DOC to recalculate Berry’s parole eligibility at 20%. Since the action was filed, the DOC has provided a list of 175 inmates who have also had their parole eligibility

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calculated at 85%, when the offense for which they pled guilty was 20% parole eligible at the time of commission. Pl. Mot. J. at 4. This has collectively resulted in over additional 738 years for this cohort to serve before becoming parole eligible. *Id.* Of the 175 inmates identified, 49 are not parole eligible prior to their minimum expiration date. *Id.* This Court granted the Attorney General’s motion to intervene in April 2025 and certified Mr. Berry as class representative in July 2025. July 14, 2025 Order at 10. Plaintiff Berry, on behalf of the certified class, filed the instant motion for judgment on the pleadings in August 2025. The Court’s Order certifying the class was affirmed by the Kentucky Supreme Court in October 2025 after an interlocutory appeal by the Attorney General, all parties have filed their briefs, and the matter is now ready for a decision on the merits.

STANDARD OF REVIEW

Under CR 12.03, this Court may grant judgment on the pleadings whenever “the ultimate and controlling facts are not in dispute.” *City of Pioneer Village v. Bullitt Cnty. ex rel. Bullitt Fiscal Court*, 104 S.W.3d 757, 759 (Ky. 2003). It provides “a method of disposing of cases where the allegations of the pleadings are admitted and only a question of law is to be decided.” *Id.* “When a party moves for a judgment on the pleadings, he admits for the purposes of his motion not only the truth of all his adversary’s well-pleaded allegations of fact and fair inferences therefrom, but also the untruth of all his own allegations which have been denied by his adversary.” *Id.* If facts are disputed after a motion for judgment on the pleadings is filed, “the motion shall be treated as one for summary judgment and disposed of as provided for in Rule 56” Summary judgment is appropriate when, making all reasonable inferences in favor of the non-moving party, there is no genuine issue as to any material fact and the moving party is

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entitled to judgment as a matter of law. CR 56.01; *Steelvest, Inc., v. Scansteel Service Center, Inc.*, 807 S.W.2d 476 (Ky. 1991).

ANALYSIS

A. The DOC erred in applying 2024 HB 5 to offenses committed prior to its effective date.

The Plaintiff first argues that the DOC erred by applying 2024 HB 5 to offenses committed prior to its effective date. He asserts that the language of HB 5 is “unambiguously applicable only to individuals whose offenses were committed on or after the effective date of the act.” Pl. Mot. J. at 6. In support of his argument, he asserts that the act contained no retroactive language, and the definition of “violent offender” does not include any language regarding sentencing. *Id.* The Plaintiff argues that statute is unambiguous and therefore the DOC’s interpretation is required to follow the unambiguous statute. *Id.* In this case, that requires the DOC to calculate the Plaintiff class’s sentences with the 20% parole eligibility that was in effect at the time their offenses were committed. Finally, the Plaintiff argues that even if the statute is ambiguous, Kentucky courts have consistently applied the statute based on the offense date. *Id.* at 8.

1. Kentucky courts have not addressed the question at issue in this case.

The Defendant DOC and Attorney General argue that Kentucky case law requires that a defendant’s designation as a violent offender and parole eligibility calculation are based on the version of KRS 439.3401 in effect at the time of sentencing. DOC Consolidated Resp. at 5. In support of this assertion, the DOC points to several cases and makes much of the courts’ language in each case describing the violent offender statute as it applied to the appellant. However, none of the issues presented in those cases involved the imposition of a more onerous

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parole eligibility calculation post-offense or guilty plea. For example, the DOC cites *Shelton v. Commonwealth*, 2023-SC-0166-MR, 2025 WL 555502 (Ky. Feb. 20, 2025), and includes the quote “[t]he version of KRS 439.3401 that was in effect at the time Shelton was sentenced provided...” as evidence that Kentucky courts interpret the statute as applying at the time of sentencing. Resp. at 5. However, the appeals court in *Shelton* was determining that the trial court erred, at the time of Shelton’s sentencing, in unilaterally classifying him as a violent offender despite Shelton not having pled guilty to any offense that would have qualified him for violent offender status. *Id.* at *4. The court’s reference to the version of the statute in effect at the time of his sentencing was only relevant because first, the current version of the statute went into effect after Shelton’s appeal but prior to the appeals court’s decision, and second, because the judge erred in classifying him as a violent offender when he was sentenced, despite Shelton not pleading guilty to an offense that would have qualified him as a violent offender. Thus, the DOC’s first cited case actually supports a finding that violent offender status does *not* attach at the time of sentencing.

Likewise, neither of the DOC’s two other cited cases persuade this Court that the DOC must apply the statute as amended to the Plaintiff class. The DOC cites *Penix v. Department of Corrections*, 2017-CA-001743-MR, 2019 WL 1976013, at *1 (Ky. App. May 3, 2019), in which the court notes “the version of the [the statute] in effect at the time of Penix's conviction...”. Neither Penix nor the appellant in the DOC’s third case, Johnson, challenged the application of the statute to them based on an amendment to the statute. Penix argued that he couldn’t be classified as a violent offender because his judgment did not recite that the victim suffered death or serious physical injury (*Penix* at *2), and Johnson made a facial challenge to penal statutes, arguing that they conflicted with the violent offender statute and effectively enlarged his

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sentence. *Johnson v. General Assembly*, 2002-CA-000091-MR, 2003 WL 1226400, at *2 (Ky. App. Jan. 10, 2003). The DOC cites *Johnson* for the sentence “[t]he version of KRS 439.3401(3) in effect at the time of sentencing, as construed by *Sanders*, provided for parole eligibility after *Sanders* had served either 50% of his sentence or twelve years, whichever was less.” *Id.* at *3. Again, however, the application of a different version of the statute was not at issue in this case. *Johnson*'s crimes, at the time of his offense and guilty plea, were designated as violent offenses. *Id.* This is evident from the court’s words later in the opinion: “The sentences imposed on indictment number 91–CR–00319 were for commission of crimes committed on September 27, 1991. All of the offenses fit the definition of a “violent offender” as set out in KRS 439.3401(1).” *Id.* The court’s opinion did not state that the offenses fit the definition of “violent offender” on the date of the *Johnson*’s sentencing. Indeed, it does not appear that this particular issue has been litigated in Kentucky courts and was certainly not at issue in the DOC’s cited cases. Thus, the Court does not find that the three cases cited by the DOC are controlling as to whether it correctly interpreted the July 14, 2024 effective date as applying to offenses committed prior to that date.

The Plaintiff cites six cases in his brief. Pl. Mot. at 8, fn 17. Like the cases cited by the DOC, the Plaintiff’s cited cases are also unpublished and therefore not binding. However, the Plaintiff points to language in each case that the court evaluated the violent offender statute in effect at the time of the offense. For example, in *Rogers v. Commonwealth*, 2000-SC-0103-MR, 2003 WL 22974913, (Ky. Dec. 18, 2003), the Kentucky Supreme Court held that the circuit court erred in designating *Rogers* a violent offender, because *at the time that Rogers’ offenses were committed*, the statute did not make first-degree robbery a violent offense unless it was accompanied by death or serious physical injury, and the circuit court made no such finding at his trial. *Id.* at *4.

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Likewise, in *Chambers v. Commonwealth*, 2006-CA-000763-MR, 2007 WL 3037461, (Ky. App. Oct. 19, 2007), the appeals court referenced “[t]he version of KRS 439.3401, the violent offender statute *in effect at the time Chambers committed his offenses*-October 2002...” *Id.* at *2 (emphasis added).

The DOC argues that the Plaintiff’s citation of the six appellate decisions is “irrelevant” because none of the decisions are published and “none of them address the issue of whether an amendment to the violent offender statute can increase parole eligibility for an offense committed before the effective date of the statute if the offender is sentenced after the amendment goes into effect.” Resp. at 8. But the same is true for the cases that the Defendant points to as supportive of its position. The Defendants are likewise unable to point to any binding authority that establishes as settled law that the application of an amendment to the violent offender statute applies to those *sentenced* post-effective date of the amendment. None of the cases cited by either party address the specific question at issue in this case, and both sides present non-binding cases where the court has referenced the statute in effect either at the time of the offense or at the time the plaintiff was sentenced. At best for the DOC and Attorney General, the caselaw is conflicting as to whether Kentucky courts apply the statute at the time of the offense or at the time of conviction. However, the Court is of the opinion that in the cases cited by the Defendants, the courts’ use of the phrase “at the time of the plaintiff’s conviction or sentencing” is no more than unintentionally imprecise language, since the timing of the application of the statute to the appellants in those cases, whether at the time of offense or at the time of conviction or sentencing, was not at issue in any of the cited cases, and thus whether the court expressed that the version of the statute in effect at the time of offense or at sentencing was of little importance. Nonetheless, even granting that Kentucky courts have never conclusively

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addressed when to apply the amended version of the violent offender statute, whether at time of the offense or at the time of sentencing, because the issue has never been presented, the statute itself is clear, as is DOC’s prior interpretation of the statute.

2. *The DOC changed its interpretation of amendments to KRS 439.3401 in 2024, despite no change in statutory language from the General Assembly.*

The reason that this issue has never been decided in Kentucky courts is because the DOC’s own Certification on the Calculation of Parole Eligibility makes clear that up until the 2024 amendment, the DOC *always* applied amendments to the violent offender statute to offenses committed *after* the amendment’s effective date. The Court finds persuasive the Plaintiff’s discussion of the history of the statute and the Plaintiff’s appendix attached to the original complaint, the Kentucky Department of Corrections Certification on the Calculation of Parole Eligibility. Ex. at 60. Each calculation explains that it applies to offenses “committed on or after” the effective date of the original statute, or the statute as amended.

Prior to 2024, the most recent amendment to the violent offender statute occurred in 2022. In 2022, SB 38 amended KRS 439.3401 to add the offense of incest to the list of offenses covered by the violent offender statute. The bill did not include any language as to the effective date, and the statute, as amended, went into effect July 22, 2022. The DOC’s Certification on the Calculation of Parole Eligibility, which was published August 13, 2024, sets forth the “length of time to serve for parole eligibility for certain crimes *committed on or after July 22, 2022...*” Appx. at 65 (emphasis added). The calculation makes clear that the crime in question is incest. *Id.* Two years later, 2024 HB 5 added several more offenses to KRS 439.3401. The amendment was identical in format to the 2022 amendment, and likewise did not contain any specific

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language as to when the increased parole eligibility sentence requirement applied. No language from the General Assembly informed or directed the DOC’s decision to apply the 2024 amendment to those individuals sentenced after the effective date, rather than to offenses committed after its effective date.

The DOC argues that the cases cited by the Plaintiff, and the Plaintiff’s discussion of the history of the statute is irrelevant because in earlier amendments, the General Assembly included offense date language. Resp. at 6. The DOC argues that the omission of the offense date language is legally significant. Resp. at 8. Paragraphs (7), (8), and (9) of the statute make clear that when the General Assembly made earlier amendments to the statute, the amendments were applied to persons who committed the offenses after the bill’s effective date.¹ However, the DOC does not explain why it then continued to interpret the amendments as applying only to offenses committed after the effective date, when the General Assembly stop adding the language offense date after the 2002 amendment.² The statute was amended several more times between 2002 and 2024, and each time the DOC applied the amended version of the statute to offenses committed after the statute’s effective date. The only logical explanation is that until 2024, the DOC interpreted the amendments to apply to offenses committed after the effective date, as the General Assembly had indicated in its prior amendments. Absent language demonstrating a clear intent by the General Assembly to depart from its specified practice of applying the amended statute to offenses *committed* after the amendment’s effective date, particularly when just two

¹ See KRS 439.3401(7), “This section shall apply only to those persons who commit offenses after July 15, 1998;” KRS 439.3401(8), “For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply;” and KRS 439.3401(9), The provisions of subsection (1) of this section extending the definition of "violent offender" to persons convicted of or pleading guilty to robbery in the first degree shall apply only to persons whose crime was committed after July 15, 2002.”

² See Appx at 61–63, “for certain violent crimes committed on or after July 12, 2006;” “for certain violent crimes committed on or after June 26, 2007;” “for certain violent crimes committed on or after June 25, 2013;” “for certain violent crimes committed on or after March 25, 2015”

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years earlier, the DOC interpreted an identical amendment to the same statute to apply to offenses committed after the effective date, the Court cannot conclude that the General Assembly suddenly intended the amended statute to apply to offenders at the date of sentencing, regardless of the date of the offense. Based on the General Assembly’s legislative history, and on the DOC’s own calculation guidelines based on the amended statutes, neither can the Court conclude that Kentucky courts have a long history of interpreting the amended statute to apply at the date of sentencing, as opposed to the version of the statute that applied to the offense when the offense was committed, as the DOC and Attorney General allege.

The Court is required to “presume that when the General Assembly revises and reenacts a statute... it ‘is well aware of the interpretation of the existing statute and has adopted that interpretation unless the new law contains language to the contrary.... If the legislators intend[] to depart from the existing statutory interpretation, it is incumbent that they use ‘plain and unmistakable language’ which leaves no doubt that a departure from the prior interpretation is intended.” *Ballinger v. Cmmw.*, 459 S.W.3d 349, 355 (Ky. 2015), quoting *Butler v. Groce*, 880 S.W.2d 547, 549 (Ky. 1994). Each and every time the General Assembly amended KRS 439.3401 since its original enactment in 1986 to the 2022 amendment discussed above, the DOC applied the amended version to offenses *committed after the effective date*. Only after the most recent amendment in 2024 did the DOC alter its interpretation to apply the amended version to sentencing occurring after the effective date, even for offenses, convictions, and guilty pleas occurring prior to the effective date. The amendments have been virtually identical in form, and the 2024 amendment contained no “plain and unmistakable” language (or indeed, any language at all), that evinced an intent to depart from the existing statutory interpretation. *Id.* The Court then presumes that the General Assembly did not intend for the DOC to depart from its prior

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interpretation when calculating the sentences of offenders subject to the statute. *Id.* Therefore, the Court finds that the DOC erred in interpreting the amended version of the violent offender statute to require the imposition of the harsher parole eligibility at the time of sentencing, rather than the time of the offense.

B. The DOC’s application of HB 5 to offenses committed prior to its effective date is a violation of the U.S. and Kentucky’s constitution’s prohibition on *ex post facto* laws.

Article I of the US Constitution and Section 19 of the Kentucky Constitution prohibit the enactment of *ex post facto* laws. KRS 446.110 states

No new law shall be construed to repeal a former law as to any offense committed against a former law, nor as to any act done, or penalty, forfeiture or punishment incurred, or any right accrued or claim arising under the former law, or in any way whatever to affect any such offense or act so committed or done, or any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising before the new law takes effect... KRS 446.110.

The Defendants repeatedly argue that the DOC’s interpretation of the amendment is not a violation of KRS 446.110 or *ex post facto* prohibitions because the Kentucky Supreme Court held in 1968 that parole provisions are a “pure act of grace” by the legislature and not a punishment. Attorney General Resp. at 9, quoting *Lynch v. Wingo*, 425 S.W.2d 573, 574 (Ky. 1968). *Lynch v. Wingo* has never been overruled by the Kentucky Supreme Court, but more recent U.S. Supreme Court cases make clear that state laws regarding parole eligibility may be a punishment, and therefore may result in *ex post facto* violations. If the legislation has the practical impact of increasing the amount of time an inmate is incarcerated, the legislation must be reviewed for possible violations of the *ex post facto* provisions of the state and federal constitutions. The U.S. Supreme Court has consistently focused on the practical impact of such legislative changes. Furthermore, more recent Kentucky Supreme Court cases, despite not

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explicitly overruling *Lynch v. Wingo*, have held that parole eligibility statutes are penal in nature. Because the statute is penal in nature, it falls within the prohibition on *ex post facto* punishments.

1. *KRS 446.110 applies to the parole eligibility statute.*

In a recent case, *Ellingburg v. U.S.*, 607 U. S. ____ (2026), the U.S. Supreme Court analyzed what state laws count as “punishments” so as to implicate the prohibition on *ex post facto* laws. To determine whether a law violates the Ex Post Facto Clause of the U.S. Constitution, “the Court must evaluate whether the law imposes a criminal or penal sanction as opposed to a civil remedy.” *Ellingburg* at 2. The Court concluded that the challenged law, the Mandatory Victims Restitution Act (MVRA), was a punishment, because the statute itself labeled restitution as a “penalty” for a “criminal offense.” *Id.* Additionally, a court could only impose restitution for a criminal defendant after conviction during the sentencing proceeding. *Id.* The statute itself was codified in Title 18, “Crimes and Criminal Procedure.” *Id.* at 3. Taken together, the Court found that these statutory features made it “abundantly clear” that the MVRA was a punishment. *Id.* Finally, the Court held that “so long as the text and structure of the Act demonstrate that Congress intended at least to ‘impose punishment,’ that ‘ends the inquiry.’” *Id.* at 5, citing various. If the payment of a mere monetary penalty is considered by the U.S. Supreme Court to fall within the prohibitions of the *ex post facto* clause, it is difficult to conceive of how legislation that drastically increases the amount of time the inmate is incarcerated would not fall within the same prohibition under the federal constitution.

The statute in question in this case is under KRS Title XL, “Crimes and Punishments,” and HB 5, the Act that amended the statute, is titled “AN ACT relating to crimes and punishments.” Additionally, like the challenged statute in *Ellingburg*, the violent offender statute

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applies to criminal defendants upon guilty plea or conviction. KRS 439.3401(1). Finally, in 2012, the Kentucky Supreme Court considered a previous version of the violent offender statute when determining whether the appellant, who was misinformed by his counsel about whether his offense qualified under the statute, was entitled to relief under *Strickland* due to the severity of the consequences of the misinformation. *Com. v. Pridham*, 394 S.W.3d 867 (Ky. 2012). In *Pridham*, our Supreme Court held that the violent offender statute “is a *punitive* measure meant to enhance the *punishment* of the serious offenses listed in the statute by ensuring that persons convicted of those offenses serve the lion's share of their sentences in prison and not on parole.” *Id.* at 878 (emphasis added). While parole itself may be an act of legislative grace, restrictions on parole eligibility, such as a statute restricting parole eligibility of certain offenders, have clearly been imposed as a punishment. The statute at issue here meets all the hallmarks of a punishment discussed in *Ellingburg*: It is under the section of the KRS relating to crimes and punishments, the Act is quite literally titled “An ACT relating to crimes and punishments,” and our own Supreme Court has stated that the parole eligibility statute is meant as a punishment for those with qualifying convictions.

Finally, the Kentucky Supreme Court expressly included parole in the penalty provisions contemplated in KRS 446.110 in *Rodgers v. Commonwealth*, 285 S.W.3d 740, 751 (Ky. 2009). There, the Supreme Court considered whether the appellant was entitled to the benefit of a self-defense statute passed after the commission of his offense. The Court stated that “amendments to penalty provisions—provisions pertaining to punishment, *such as those creating terms of imprisonment, periods of probation or parole*, fines, or forfeitures—*may* be retroactively applied if the defendant ‘specifically consents to the application of the new law which is ‘certainly’ or ‘definitely’ mitigating.’” *Id.* at 751, quoting *Lawson v. Commonwealth*, 53 S.W.3d 534, 550 (Ky.

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2001) (emphasis added). In other words, while the Court in *Lynch v. Wingo* held that a grant of parole itself is an act of legislative grace, the Kentucky Supreme Court itself has since recognized that legislative restrictions on parole are punishments, and thus fall squarely within the prohibitions in KRS 446.110. Because parole eligibility is a punishment contemplated under KRS 446.110, the statute's protection against *ex post facto* punishment is implicated in the DOC's erroneous interpretation of the amendment as applied to the plaintiff class. All members of the plaintiff class committed an offense prior to the effective date of the amendment. When the DOC erroneously classified them as violent offenders, it violated KRS 446.110's prohibition on *ex post facto* laws.

2. *The U.S. Supreme Court has held that laws restricting parole eligibility may be an ex post facto violation.*

The U.S. Supreme Court's cases considering the constitutionality of state laws restricting parole also make clear not only that restrictions on parole eligibility are a punishment, but also that some restrictions may result in *ex post facto* violations. In *Weaver v. Graham*, 450 U.S. 24 (1981), the Supreme Court considered a Florida law which altered the formula of good time credit for time served by decreasing the number of days it was possible to earn each month. *Id.* at 27. The Court ruled that it was unconstitutional as an *ex post facto* law when applied to the petitioner, whose crime was committed before the statute's enactment. *Id.* Florida applied the amended law not only to prisoners sentenced for crimes after its enactment, but to all other prisoners whose offenses took place before that date. *Id.* The Florida Supreme Court, like the Kentucky Supreme Court in *Lynch v. Wingo*, reasoned that "gain time allowance is an act of grace rather than a vested right and may be withdrawn, modified, or denied." *Id.* at 28, quoting *Harris v. Wainwright*, 376 So.2d 855, 856 (1979).

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The Supreme Court held that for a criminal or penal law to be *ex post facto*, “it must apply to events occurring before its enactment, and it must disadvantage the offender affected by it.” *Weaver* at 29. The Court went on to add that a law “need not impair a vested right to violate the *ex post facto* provision...Critical to relief under the Ex Post Facto Clause is not an individual’s right to less punishment, but the lack of fair notice and governmental restraint when the legislature increases punishment beyond what was prescribed when the crime was consummated...The critical question is whether the law changes the legal consequences of acts completed before its effective date...a prisoner’s eligibility for reduced imprisonment is a significant factor entering into both the defendant’s decision to plea bargain and the judge’s calculation of the sentence to be imposed.” *Id.* at 29–32. In *Weaver*, the Supreme Court held that the petitioner's sentence was effectively altered once the calculation was changed. In other words, a defendant cannot make a knowing and intelligent decision on a plea agreement if the Commonwealth can change essential terms of the agreement (such as parole eligibility) after the fact.

If a Florida statute that changes the calculation of good time credit is an unconstitutional *ex post facto* law if applied retroactively, the DOC's application of HB 5 to the inmates in the class certainly is. When Plaintiff Berry committed his offense and subsequently pled guilty, he was eligible for parole one year and some months after sentencing, with his jail time credit. When the DOC applied the amended statute to his sentence calculation, he was informed he would have to serve more than eight years before becoming eligible for parole. The DOC’s application to the amended version of the law to Berry changed the legal consequences of his offense, by lengthening the amount of time he was mandated to spend behind bars before becoming eligible for parole. *Id.*

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The Supreme Court later made the test for an *ex post facto* violation as applied to laws involving parole more stringent in *California Dept. of Corrections v. Morales*, 514 U.S. 499 (1995), however even under the test set forth in *Morales*, the DOC’s interpretation was clearly violative. In *Morales*, the respondent challenged a California law which changed the requirement to hold a parole hearing for certain offenses from annually to every three years. *Id.* at 499. The respondent, convicted of murdering his wife in 1980, was eligible for parole in 1990. He was denied parole at his first hearing, and under the new law, was denied another hearing until 1992. *Id.* The Supreme Court held that the application of the law to the respondent post-conviction was not an *ex post facto* violation, because it did not increase the punishment attached to his crime, since it “left untouched his indeterminate sentence and the substantive formula for securing any reductions to the sentencing range.” *Id.* The Supreme Court declined to articulate a single formula for determining constitutional violation but held that it was a matter of “degree.” *Id.* at 509. The relevant question, it held, was whether the law “produces a sufficient risk of increasing the measure of punishment attached to the covered crimes.” *Id.* Additionally, unlike the amendment to the law in *Weaver*, which had the “purpose and effect of enhancing the range of available prison terms,” the California law’s evident focus was to relieve the Parole Board from “the costly and time-consuming responsibility of scheduling parole hearings for prisoners who have no reasonable chance of being released.” *Id.* at 507.

Under both *Weaver* and *Morales*, the amended law as applied to the Plaintiff class is clearly an *ex post facto* violation. Unlike *Morales*, the law is not one that is simply meant to alleviate the burden on the Parole Board for those inmates who are unlikely to be granted parole. The law is specifically aimed at increasing the punishment for certain crimes by lengthening the amount of time that an individual convicted of that crime must spend behind bars. Therefore, it

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has the purpose and effect of enhancing the range of available prison terms and produces a sufficient risk of increasing the measure of punishment attached to the covered crimes. *Id.* at 507. For the Plaintiff class, the application of the amended statute to each plaintiff increases their eligibility by an average of four years, collectively resulting in over 738 additional years to serve before becoming eligible for parole. Pl. Mot. at 4.

The DOC argues that it is not applying the amendment retroactively, it is “applying to prospectively to individuals sentenced on or after July 15, 2024, when House Bill 5 became effective.” Resp. at 10. The DOC cites *Pate v. Department of Corrections*, 466 S.W.3d 480 (Ky. 2015) to support its contention that its retroactive application of the amendment is not an *ex post facto* violation under *Morales* and *Weaver*. In *Pate*, the appellant was convicted of manufacturing methamphetamine, second offense, which was a Class A felony. He received the minimum sentence of 20 years in prison, after the Commonwealth and Kentucky State Police testified that he was a non-violent offender that would become eligible for parole after he served 20% of his sentence. *Id.* at 484. However, the trial court stated that it was required under a different statute to sentence him to a consecutive sentence of twenty years, rather than concurrent, for a total of 40 years. *Id.* When Pate began serving his sentence, the DOC classified him as a nonviolent offender, however four years into his sentence, the DOC reclassified him as a violent offender, setting his parole eligibility date for 20 years. *Id.* The DOC informed him that it changed his status due to a change in its interpretation of the statute. *Id.* Prior to 2006, the DOC interpreted the violent offender statute to include prisoners serving time for Class A felonies only if the crime involved the death of the victim or serious injury to the victim. *Id.* However, in 2006, the General Assembly amended the statute to clarify that violent offender status should be applied to all Class A felons, regardless of death or injury to the victim. *Id.*

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Based on that amendment, the DOC changed its classification for all prisoners convicted of Class A felonies. *Id.*

At first blush, this case seems analogous to the present case, because the DOC changed Pate's classification post-offense, after the General Assembly amended the statute. In that case, however, the Court's analysis hinged on whether the law, at the time of Pate's offense, actually classified him as a non-violent offender. The statute as written at the time of Pate's offense could reasonably be read either to apply the death or serious injury requirement only to Class B felonies, or to all three types: Capital, Class A, and Class B. *Id.* at 486. For the first four years of Pate's incarceration, the DOC (as well as the Commonwealth at the time of Pate's sentencing) interpreted the death or serious injury clause as applying to all three types of offenses. *Id.* In 2006, the General Assembly amended the statute to clarify that Capital and Class A felonies qualified under the statute, as well as Class B felonies involving death or serious injury of the victim. *Id.* The Court applied both *Weaver* and *Morales* to determine whether the law imposed a punishment for an act which was not punishable at the time it was committed or imposed additional punishment to that then prescribed. *Id.* The Court found that while the application of the violent offender statute did not lengthen Pate's sentence, under *Weaver*, his inability to earn credits to reduce his sentence did impermissibly lengthen his time. *Id.* The Court then turned to the question of whether the DOC's reclassification of Pate was retroactive.

The Court's analysis in *Pate* hinged on whether the language in the statute before it was amended would have classified him as a non-violent offender. If Pate wasn't a violent offender under the statute before it was amended, it was an impermissible retroactive change. *Id.* at 488. However, the court found that the General Assembly had the intent of categorizing class A felonies as violent, whether or not they resulted in bodily injury in the pre-2006 statute.

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Therefore, the amended version was not a retroactive change, just a clarification of the legislature’s original intent. Thus, the legislature was clarifying its determination that DOC had incorrectly interpreted the legislation. In other words, Pate was always a violent offender under the pre-2006 statute, and his original classification was in error. *Id.* at 489.

In *Pate*, the 2006 amendment was textual and merely clarified the language already in effect. As such, the Court found that the statute, as written at the time of Pate's offense, had always been intended to classify his offense as a violent offense. That is not the case here. The 2024 amendment was a substantive change to the statute, which added several offenses, including Berry’s. The crime for which Berry was convicted, at the time of the offense and at the time of his guilty plea, was not intended to be classified as violent offense, because it was specifically added to the statute in 2024. The retroactive application of such a substantive change makes *Weaver*’s discussion of fairness with regard to *ex post facto* laws directly relevant. There, the Supreme Court noted that the prohibition on *ex post facto* laws was based on “the lack of fair notice and governmental restraint when the legislature increases punishment beyond what was prescribed when the crime was consummated” and that “a prisoner’s eligibility for reduced imprisonment is a significant factor entering into both the defendant’s decision to plea bargain and the judge’s calculation of the sentence to be imposed.” *Weaver* at 32. Berry certainly relied on the existing statutory definition of violent offender when he accepted a plea bargain that made him eligible for parole at two years.

Moreover, the DOC points to language in the Court’s opinion asserting that the increase did not have a “very real and direct effect on the actual time the prisoner remains behind bars...” Resp. at 12, quoting *Pate*, supra. However, as discussed above, the Court’s holding in *Pate* was premised on its finding that the application to Pate was not retroactive, because the amendment

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to the statute was textual, not substantive. “A statement in an opinion not necessary to the decision of the case is obiter dictum.” *Brown v. Diversified Decorative Plastics, LLC*, 103 S.W.3d 108, 111 (Ky. App. 2003). “The test is whether the statement was or was not necessary to the determination of the issues raised by the record and considered by the court.” *Id.* The Plaintiff argues that the DOC’s reliance on *Pate* is flawed because it is dicta, twice over. Pl. Mot. at 17. The Court agrees with Plaintiffs. *Pate* found the statute was not retroactive, but also held that there was no need to address the retroactivity in light of the misinformation he received that warranted equitable relief under CR 60.02. As such, *Pate* is not authoritative on the issue of whether increasing the minimum time to be served before possible release has a very direct and real effect on the actual time a prisoner remains behind bars, *i.e.*, whether it is an *ex post facto* violation. The U.S. Supreme Court’s cases discussed above are authoritative, and the Court finds that they are directly applicable to Berry’s case.

Other Supreme Court cases support this finding. Directly on point is *Peugh v. United States*, 569 U.S. 530 (2013). The petitioner in that case was convicted of bank fraud for conduct occurring in 1999 and 2000. He was sentenced in 2009 and argued that he should be sentenced under the 1998 sentencing guidelines in effect at the time of his offenses, rather than the guidelines in effect at the time of his sentencing. The Supreme Court agreed. *Id.* at 530.

Finally, *Garner v. Jones*, 529 U.S. 244 (2000) more clearly defines under what circumstances the Supreme Court finds there to be an *ex post facto* violation. In *Garner*, the Supreme Court found that a Georgia law increasing the parole hearing interval to eight years, after the first mandatory hearing at seven years, was not an *ex post facto* violation. *Id.* at 251. In explaining the factors it considered for ruling similarly to its holding in *Morales*, the Court said “[the amended California law] did not modify the statutory punishment imposed for any

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particular offenses. Nor did the amendment alter the standards for determining either the initial date for parole eligibility or an inmate's suitability for parole.” *Id.* In other words, an amendment, like the one at issue in the instant case, which *did* modify the statutory punishment imposed for a particular offense, and that *did* alter the standards for determining the initial date of parole eligibility potentially would be an *ex post facto* violation.

Based on the U.S. Supreme Court’s rulings in similar cases, the Court finds that the DOC’s application of the amendment to the Plaintiffs after the commission of their offense is an *ex post facto* violation. The Court held that *ex post facto* principles do not merely protect reliance interests, but also protect “principles of fundamental justice.” *Peugh* at 546. Here, the plaintiff class contains prisoners whose offenses, at the time committed, did not qualify them to be labeled violent offenders or sentenced pursuant to that statute. Even more egregious, a number of the Plaintiffs, including Berry, pled guilty to their offense based on their reliance that Kentucky’s justice system did not label them as such. The Court cannot think of a situation in which the Supreme Court’s discussion of the principles of reliance and fairness is implicated more squarely. Each of the Plaintiffs committed a crime, for which they are being justly punished. Despite their status as offenders, even offenders guilty of heinous crimes, they are entitled to rely on the punishment promised by the government at the time their crime was committed.

CONCLUSION

The amended version of KRS 436.3410 as applied to Berry and the Plaintiff class is an *ex post facto* violation. The U.S. Supreme Court is clear that principles of fairness and fundamental justice underlay the prohibition on *ex post facto* laws, as is the notion of “lack of fair notice and governmental restraint when the legislature increases punishment beyond what was prescribed when the crime was consummated.” *Weaver* at 32. That is clearly what has occurred here. When

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Berry and the Plaintiff class committed their offenses, they were eligible for parole when they served 20% of their sentences. The DOC incorrectly interpreted the amendment when it retroactively applied the amended version of the law to the plaintiffs whose offenses occurred before the effective date of the act. Such an incorrect interpretation of the statute is an *ex post facto* violation, where the application of the statute to the plaintiff class violated their fundamental right to rely on the punishment promised by the legislature at the time of their offense.

Wherefore it is **HEREBY ORDERED:**

1. The Defendant DOC is **ENJOINED** from applying 2024 HB 5 to any plaintiff class member or inmate whose offense occurred prior to July 15, 2024.
2. The Defendant DOC is required to impose 20% parole eligibility for all offenses which carried 20% parole eligibility at the time of the offense, regardless of the date of sentencing.
3. The Defendant DOC is required to change all sentences calculated at 85% due solely to DOC's erroneous interpretation of HB 5, to 20% parole eligibility, and to make all affected offenders immediately eligible for placement in the Substance Abuse Program or other programs, if their recalculated parole date makes them eligible.
4. This is a final and appealable order and there is no just cause for delay.

SO ORDERED this 17th day of February, 2026.



PHILLIP J. SHEPHERD, JUDGE
Franklin Circuit Court, Division I

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Kate R. Morgan, Clerk

Kentucky Court of Appeals

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EXHIBIT B

Commonwealth's Chart

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| DOC # | Inmate Last Name | Inmate First Name | Sentence Began | County | Docket No. | HB 5 PE | 20% PE | Convictions | Qualifying |
|--------|------------------|-------------------|----------------|------------|-----------------|----------|----------|--|---|
| 337742 | Abernathy | Damien | 12/12/24 | Logan | 24-CR-00118 | 10/22/32 | 03/07/27 | Possession of Firearm by Convicted Felon, Strangulation 1st, Wanton Endangerment 1st | Strangulation 1st |
| 343710 | Acosta | Frank | 01/14/26 | Jefferson | 23-CR-2228 | 07/04/30 | 04/04/25 | Criminal Mischief, Manslaughter 2nd | Manslaughter 2nd |
| 337433 | Acosta | Salvador | 12/18/25 | Fayette | 22-CR-00205-001 | 07/04/30 | 04/12/25 | Wanton Endangerment 1st, Fleeing or Evading Police 1st, Robbery 2nd | Robbery 2nd |
| 294029 | Adkins | Hank | 02/20/25 | Madison | 24-CR-243 | 05/01/26 | 02/28/25 | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities |
| 338987 | Amaya | Rodolfo | 03/12/25 | Christian | 23-CR-204 | 08/24/31 | 02/24/26 | Wanton Endangerment 1st, Manslaughter 2nd | Manslaughter 2nd |
| 340747 | Anderson | Jordan | 07/07/25 | Scott | 24CR225 | 02/05/37 | 05/05/27 | Criminal Attempt Murder, Strangulation 1st Sexual Abuse 1st, | Strangulation 1st, Criminal Attempt Murder |
| 337987 | Angel | Ian | 12/16/24 | Kenton | 22-CR-1121 | 11/30/28 | 08/30/25 | Theft by Unlawful Taking or Disposition more than \$500 less than \$10,000, Sexual Abuse 1st | Sexual Abuse 1st |
| 335631 | Armstrong | Richard | 12/08/25 | Metcalfe | 24-CR-00015 | 07/09/28 | 12/09/25 | Sexual Abuse 1st, Theft by Unlawful Taking or Disposition less than \$10,000, Sexual Abuse 1st | Sexual Abuse 1st |
| 313033 | Ault | John | 11/19/24 | Fayette | 22-CR-683 | 11/22/30 | 05/22/24 | Sexual Abuse 1st, Victim under 12, Incest | Sexual Abuse 1st, Victim under 12; Incest |
| 341299 | Bailey | Jordan | 08/05/25 | Kenton | 24-CR-00648-003 | 12/01/30 | 09/02/25 | Manslaughter 2nd Sexual Abuse 1st, | Manslaughter 2nd Sexual Abuse 1st, |
| 329719 | Baker | Jason | 07/25/25 | Montgomery | 20-CR-00181 | 04/07/26 | 04/07/24 | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities |
| 335813 | Barker | Floyd | 08/08/24 | Menifee | 21-CR-00023 | 03/01/28 | 12/24/24 | Sexual Abuse 1st, Victim under 12 | Sexual Abuse 1st, Victim under 12 |
| 342929 | Baxter | Embry | 10/24/25 | Franklin | 24-CR-00216 | 11/15/32 | 05/15/28 | Assault 2nd, Criminal Abuse 1st | Criminal Abuse 1st |
| 276748 | Bealmear | Bryan | 04/16/25 | Christian | 24-CR-00169 | 09/01/32 | 03/02/26 | Rape 2nd | Rape 2nd |
| 338921 | Beck | David | 03/07/25 | Bullitt | 23-CR-00325 | 02/01/32 | 08/15/25 | Manslaughter 2nd | Manslaughter 2nd |
| 336293 | Berry | Toby | 08/02/24 | Franklin | 24-CR-00065 | 05/28/31 | 07/23/25 | Assault 2nd, Strangulation 1st, Unlawful Imprisonment 1st, Promoting Contraband 1st | Strangulation 1st |
| 337514 | Berryman | Jonathan | 11/26/24 | Adair | 23-CR-00146 | 02/01/32 | 08/15/25 | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities, Tampering with Physical Evidence, Possession of Matter Portraying Sexual Performance of Minor, Use of a Minor under 18 in a Sexual Performance, Unlawful transaction with a minor 1st, illegal sex act, under 18, Rape 2nd, Rape 3rd, and Sodomy 3rd | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities, Use of a Minor under 18 in a Sexual Performance, Unlawful transaction with a minor 1st, illegal sex act, under 18, Rape 2nd, Rape 3rd, Sodomy 3rd |
| 342938 | Biezacchi | Jacob | 11/18/25 | Warren | 24-CR-00695 | 12/17/26 | 12/17/24 | Sexual Abuse 1st | Sexual Abuse 1st |
| 339623 | Bonner | Jimmy | 04/22/25 | Jefferson | 24-CR-000551 | 04/13/28 | 03/02/25 | Receiving Stolen Property, Burglary 2nd, Strangulation 1st, Wanton Endangerment 1st, and Complicity Criminal Mischief | Strangulation 1st |
| 339528 | Bowles | John | 03/17/25 | Bath | 23-CR-00052 | 12/05/28 | 02/05/26 | Complicity trafficking controlled substance 1st, Possession of Handgun by Convicted Felon, and Manslaughter 2nd | Manslaughter 2nd |
| 215191 | Bradley | Joshua | 10/24/25 | Rockcastle | 20-CR-00045 | 06/29/31 | 12/29/24 | Unlawful transaction with a minor 1st, illegal sex act, under 18 | Unlawful transaction with a minor 1st, illegal sex act, under 18 |
| 336141 | Bradley | Samuel | 08/29/24 | Boone | 23-CR-00722 | 02/11/32 | 08/11/25 | Sexual Abuse 1st and Promoting a sexual performance by a minor under 18 | Sexual Abuse 1st, Promoting a sexual performance by a minor under 18 |

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| | | | | | | | | Unlawful transaction with a minor 1st, illegal sex act, under 18, Promoting a sexual performance by a minor under 18, Rape 3rd, Sodomy 3rd, Sexual Abuse 1st, Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities, and Tampering with Physical Evidence | Unlawful transaction with a minor 1st, illegal sex act, under 18, Promoting a sexual performance by a minor under 18, Rape 3rd, Sodomy 3rd, Sexual Abuse 1st, Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities |
| 335597 | Brady | Patrick | 07/23/24 | Anderson | 23-CR-00057 | 09/01/36 | 12/24/26 | | |
| 342978 | Bratcher | Bobby | 11/19/25 | Muhlenberg | 24-CR-00107 | 11/07/28 | 07/07/26 | Sexual Abuse 1st (x2) | Sexual Abuse 1st (x2) |
| 190172 | Brown | Andra | 10/31/24 | Fayette | 23-CR-00036 | 07/09/28 | 04/09/25 | Strangulation 1st | Strangulation 1st |
| 340669 | Brumley | David | 07/01/25 | Wayne | 20-CR-00142 | 12/01/26 | 09/01/25 | Sexual Abuse 1st | Sexual Abuse 1st |
| 337062 | Campbell | Lee | 10/28/24 | Jefferson | 20-CR-001972 | 07/01/27 | 09/23/22 | Rape 2nd, Sodomy 2nd, Manslaughter 2nd, and Tampering with a witness | Manslaughter 2nd |
| 336672 | Campbell | Aric | 10/03/24 | Perry | 23-CR-00106 | 07/08/28 | 04/08/25 | Knowingly abuse/neglect of adult by a person; Unlawful transaction with a minor 1st, illegal controlled substance, under 18; Criminal Abuse 1st | Criminal Abuse 1st |
| 339578 | Carroll | John | 04/15/25 | Campbell | 24-CR-00426 | 06/27/26 | 03/27/25 | Sexual Abuse 1st | Sexual Abuse 1st |
| 331109 | Carroll | Glendell | 08/13/24 | Warren | 23-CR-00505 | 09/12/32 | 05/08/26 | Forgery 2nd, Rape 2nd, and Sodomy 2nd | Rape 2nd, Sodomy 2nd |
| 304890 | Carter | Deonte | 12/03/25 | Fayette | 22-CR-00304-001 | 06/21/30 | 12/13/26 | Complicity Manslaughter 2nd, Possession of Handgun by Convicted Felon, Criminal Facilitation Robbery 1st, Manslaughter 2nd | Manslaughter 2nd, Complicity Manslaughter 2nd, Criminal Facilitation Robbery 1st |
| 328718 | Cartmill | Andrew | 09/16/24 | Warren | 23-CR-00448-002 | 05/19/27 | 09/19/24 | Manslaughter 2nd Trafficking Controlled Substance 1st | Manslaughter 2nd |
| 149164 | Casebier | Jacob | 11/07/24 | Daviess | 23-CR-483 | 04/21/33 | 10/04/25 | Wanton Endangerment 1st Possession of handgun by convicted felon, and Robbery 2nd | Robbery 2nd |
| 336150 | Castle | Stephen | 08/30/24 | Gallatin | 23-CR-00060 | 05/17/27 | 02/17/26 | Wanton Endangerment 1st, Possession of handgun by convicted felon, and Criminal Abuse 1st | Criminal Abuse 1st |
| 324170 | Caudill | Mark | 11/13/24 | Letcher | 22-CR-11 | 04/16/26 | 01/16/24 | Sexual Abuse 1st (x2), Assault 2nd, and Intimidating a participant in legal process | Sexual Abuse 1st (x2), Assault 2nd (class c) |
| 220442 | Caulder | Ivan | 03/21/25 | Jefferson | 23-CR-001319 | 08/23/27 | 05/23/25 | Tampering with physical evidence and Reckless Homicide | Reckless Homicide |
| 335387 | Cecil | James | 07/11/24 | Perry | 23-CR-00140 | 01/22/32 | 07/22/25 | Sexual Abuse 1st (prior), Incest, and Rape 2nd | Incest and Rape 2nd |
| 340095 | Chandler | Eric | 05/15/25 | Putaski | 24-CR-00042 | 03/08/28 | 12/08/24 | Assault 2nd (class c) | Assault 2nd with a finding of serious physical injury |
| 337214 | Cisco | Gregory | 11/08/24 | Montgomery | 21-CR-00138 | 02/01/34 | 05/01/24 | Sodomy 2nd, Sexual Abuse 1st victim under 12 | Sodomy 2nd, Sexual Abuse 1st victim under 12 |
| 336481 | Clark | David | 09/20/24 | Rowan | 13-CR-137 | 11/30/26 | 08/30/24 | Possession of Matter Portraying Sexual Performance of Minor PFO Enhancement, Sexual Abuse 1st victim under 12 | Sexual Abuse 1st victim under 12 |
| 217111 | Clark | Randall | 09/17/25 | Washington | 25-CR-00015 | 03/30/30 | 04/30/26 | Criminal Abuse 1st | Criminal Abuse 1st |
| 335768 | Clarkson | John | 10/15/24 | Hardin | 23-CR-00835 | 03/05/32 | 09/05/25 | Sexual Abuse 1st victim under 12 | Sexual Abuse 1st victim under 12 |
| 336343 | Collins | Jerry | 09/12/24 | Perry | 23-CR-00049 | 04/19/28 | 01/19/25 | Sexual Abuse 1st victim under 12 | Sexual Abuse 1st victim under 12 |
| 210525 | Combs | Brian | 08/08/24 | Putaski | 22-CR-00305 | 02/29/32 | 08/30/27 | Possession of a handgun by a convicted felon, Strangulation 1st | Strangulation 1st |
| 337552 | Combs | Jawan | 12/02/24 | Hopkins | 24-CR-322 | 06/02/33 | 06/04/29 | Assault 2nd (Class C), 1st Possession Carfentanil or Fentanyl, Manslaughter 2nd, Trafficking a controlled substance 1st (x2) | Manslaughter 2nd |
| 340434 | Conkright | Christopher | 06/13/25 | Montgomery | 23-CR-00023 | 06/11/26 | 11/11/23 | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities, Sexual Abuse 1st, Sodomy 3rd, Rape 3rd | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities, Sexual Abuse 1st, Sodomy 3rd, Rape 3rd |

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| 342623 | Conley | Christopher | 10/29/25 | Grant | 24-CR-00093 | 03/30/30 | 04/30/26 | Criminal Abuse 2nd and Strangulation 1st | Strangulation 1st |
| 333422 | Conner | Dillon | 05/22/25 | Madison | 23-CR-611 | 02/13/30 | 07/06/26 | Fleeing or Evading 1st, Strangulation 1st, Unlawful Imprisonment 1st, Trafficking Controlled Substance 1st, Burglary 2nd, Unlawful Imprisonment 1st, Strangulation 1st, Wanton Endangerment 1st | Strangulation 1st |
| 336589 | Copodonna | Brittney | 09/27/24 | Boyd | 23-CR-00088 | 09/01/31 | 03/13/26 | Possession of controlled substance 1st (x2), Manslaughter 2nd | Manslaughter 2nd |
| 336734 | Cosby | Kerra | 10/07/24 | Henderson | 23-CR-048 | 12/26/28 | 09/23/25 | Wanton Endangerment 1st, Robbery 2nd | Robbery 2nd |
| 216266 | Cowan | Joe | 07/14/25 | Union | 24-CR-00069 | 05/10/26 | 09/10/25 | Sexual Assault 1st | Sexual Assault 1st |
| 340620 | Cox | Wendy | 06/26/25 | Madison | 24-CR-00462 | 11/16/29 | 11/16/25 | Complicity Manslaughter 2nd | Complicity Manslaughter 2nd |
| 210754 | Cox | Tyler | 06/05/25 | Putaski | 24-CR-00382 | 12/06/32 | 06/06/27 | Possession of controlled substance 1st, Possession of handgun by convicted felon, Sodomy 2nd, Rape 3rd, and Rape 2nd no force | Sodomy 2nd, Rape 3rd, Rape 2nd no force |
| 339791 | Cranfill | Craig | 04/28/25 | Campbell | 22-CR-0258 | 05/30/32 | 11/30/25 | Sexual Abuse 1st victim under 12 and Sodomy 2nd | Sexual Abuse 1st victim under 12, Sodomy 2nd |
| 171556 | Cummings | Eugene | 10/03/24 | Davies | 21-CR-00921 | 09/20/30 | 03/20/24 | Sexual Abuse 1st victim under 12 (x2) | Sexual Abuse 1st victim under 12 |
| 342399 | Curran | Dwight | 10/14/25 | Grayson | 24-CR-00212 | 04/27/27 | 04/27/25 | Rape 3rd | Rape 3rd |
| 307282 | Cushenberry | DeQuan | 02/26/25 | Christian | 24-CR-352 | 05/31/28 | 02/28/25 | Rape 3rd | Rape 3rd |
| 337102 | Dalton | Franklin | 11/04/24 | Simpson | 23-CR-00354 | 02/15/27 | 07/15/24 | Sexual Abuse 1st | Sexual Abuse 1st |
| 338409 | Damrel | Christopher | 02/04/25 | Anderson | 24-CR-00029 | 04/09/30 | 10/09/25 | Unlawful transaction with a minor 1st, illegal sex act, under 18; Rape 3rd | Unlawful transaction with a minor 1st, illegal sex act, under 18, Rape 3rd |
| 341495 | Day | Donald | 08/19/25 | Graves | 24-CR-00008 | 11/18/28 | 12/18/24 | Possession controlled substance 1st heroin, Distribution of matter portraying sexual performance by minor 1st, Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities, Use of a minor under 18 in sexual performance, Possession of matter portraying sex performance by minor | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities; Use of a minor under 18 in sexual performance |
| 337344 | Deas | Deandrae | 11/15/24 | Fayette | 23-CR-602 | 07/08/27 | 06/08/24 | Intimidating a participant in legal process, Strangulation 1st | Strangulation 1st |
| 283939 | Delaney | Autumn | 11/13/24 | Boone | 23-CR-00759 | 02/19/32 | 08/14/26 | Complicity Manslaughter 2nd, Trafficking controlled substance 1st | Complicity Manslaughter 2nd |
| 288823 | Denkins | Candi | 03/17/25 | Bath | 23-CR-00053 | 07/17/33 | 05/17/29 | Trafficking controlled substance 1st, Possession of handgun by convicted felon, Manslaughter 2nd (PFO enhancement as to all) | Manslaughter 2nd PFO enhancement |
| 339960 | Diaz | Efrain | 05/12/25 | Muhtenberg | 24-CR-00395 | 12/12/29 | 01/12/26 | Sexual Abuse 1st victim under 12 | Sexual Abuse 1st victim under 12 |
| 337808 | Diaz Perez | Joaquin | 12/17/24 | Montgomery | 24-CR-00024 | 04/09/28 | 01/09/25 | Manslaughter 2nd | Manslaughter 2nd |
| 341118 | Dixon | James | 07/29/25 | Davies | 23-CR-01014 | 01/22/29 | 02/22/25 | Sodomy 2nd, Rape 2nd | Sodomy 2nd and Rape 2nd |
| 343161 | Domingo-Jimenez | Melvin | 12/04/25 | Davies | 23-CR-228 | 04/16/27 | 01/16/24 | Use of a minor under 18 in a sexual performance, Rape 3rd | Rape 3rd; Use of a minor under 18 in a sexual performance |
| 335576 | Doolin | Johnnie | 07/22/24 | Morgan | 24-CR-00012 | 07/18/26 | 07/18/24 | Sodomy 3rd, Rape 3rd | Sodomy 3rd, Rape 3rd |
| 336524 | Douglas | Matthew | 09/24/24 | Davies | 21-CR-00942 | 08/25/30 | 02/25/24 | Sexual Abuse 1st (x2) | Sexual Abuse 1st (x2) |
| 342649 | Dover | Lindsey | 10/30/25 | Logan | 24-CR-328 | 03/24/34 | 09/24/27 | Manslaughter 2nd | Manslaughter 2nd |
| 337216 | Drake | Christian | 11/08/24 | Mason | 23-CR-00080 | 11/01/28 | 08/16/26 | Wanton Endangerment 1st, Strangulation 1st | Strangulation 1st |
| 341692 | Duke | Zackeri | 09/02/25 | Hardin | 23-CR-00820 | 09/16/28 | 09/03/25 | Theft by unlawful taking Possession of firearm by convicted felon, Reckless Homicide | Reckless Homicide |
| 313547 | Duncan | Richard | 04/22/25 | Hardin | 24-CR-00335 | 01/01/30 | 07/27/25 | Burglary 3rd (x2), Strangulation 1st | Strangulation 1st |
| 343411 | Duncan | Maddox | 12/19/25 | Ballard | 23-CR-00061 | 02/09/38 | 05/09/29 | Assault 2nd, Manslaughter 2nd | Manslaughter 2nd |

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| 134304 | Dunkerson | Gary | 12/09/24 | Henderson | 24-CR-00231 | 01/01/31 | 10/12/25 | Sexual Abuse 1st victim under 12, Possession of controlled substance 1st, Burglary 2nd, Theft by unlawful taking less than \$10,000 | Sexual Abuse 1st victim under 12 |
| 234296 | Dunn | Robert | 02/03/25 | Wolfe | 23-CR-00036 | 12/03/31 | 06/03/29 | Incest, Rape 2nd (x2), Sexual Abuse 1st | Incest, Rape 2nd (x2), Sexual Abuse 1st |
| 222481 | Durbin | Jason | 08/25/25 | Bullitt | 25-CR-00143 | 03/18/30 | 04/12/26 | Manslaughter 2nd | Manslaughter 2nd |
| 338936 | Edgerton | Joseph | 03/10/25 | Carroll | 22-CR-00162 | 04/07/29 | 01/06/26 | Criminal Abuse 1st child 12 or under | Criminal Abuse 1st child 12 or under |
| 339474 | Edmonds | Robert | 04/08/25 | Jefferson | 24-CR-0971 | 02/21/30 | 08/21/25 | Assault 2nd (class c), Strangulation 1st, Intimidating a participant in legal process | Strangulation 1st |
| 337095 | Elam | Teresa | 11/04/24 | Scott | 23-CR-00083 | 03/28/29 | 09/19/24 | Manslaughter 2nd | Manslaughter 2nd |
| 318605 | Elliott | Aaron | 08/01/24 | Fayette | 23-CR-924 | 01/05/28 | 07/05/23 | Sexual Abuse 1st PFO enhancement | Sexual Abuse 1st PFO enhancement |
| 319775 | Elmore | Michael | 11/07/24 | Oldham | 23-CR-00100 | 04/01/32 | 10/19/27 | Burglary 2nd, Strangulation 1st | Strangulation 1st |
| 338406 | Embry | Mason | 02/04/25 | Daviss | 24-CR-514 | 01/01/26 | 10/22/24 | Sexual Abuse 1st | Sexual Abuse 1st |
| 156348 | Embry | I.B. | 12/22/25 | Hardin | 24-CR-159 | 06/25/32 | 03/25/27 | Wanton Endangerment 1st | Wanton Endangerment 1st |
| 339274 | Engel-Deppe | Lee Roy | 03/31/25 | Hopkins | 23-CR-00053 | 06/28/31 | 12/29/24 | Tampering with a witness, Criminal Abuse 2nd, Criminal Abuse 1st | Criminal Abuse 1st |
| 337788 | Espinosa | Jonathan | 12/16/24 | Boone | 24-CR-00088 | 04/01/28 | 01/10/25 | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities |
| 340088 | Ethington | Clifton | 05/20/25 | Anderson | 24-CR-00026 | 07/02/28 | 04/02/26 | Unlawful transaction with minor 2nd, Sexual Abuse 1st victim under 12 | Sexual Abuse 1st victim under 12 |
| 336222 | Fannin | Jonathan | 09/05/24 | Floyd | 23-CR-00131 | 04/29/26 | 05/29/24 | Sexual Abuse 1st | Sexual Abuse 1st |
| 271178 | Farjeat | Andrew | 08/08/25 | Jefferson | 24CR1880 | 10/05/28 | 07/05/25 | Possession of handgun by convicted felon, Wanton endangerment 1st, Tampering with physical evidence, Promoting contraband 1st (Class D), Possession 1st Carfentanil or Fentanyl | Wanton endangerment 1st (serving per plea agreement) |
| 343848 | Fazilji | Erhan | 01/22/26 | Jefferson | 21-CR-000728-02 | 07/19/29 | 01/19/23 | Assault under extreme emotional disturbance, Robbery 2nd, Receiving stolen property under \$10,000, Burglary 3rd, Possession of marijuana, Obscuring identity of machine other property less than \$10,000, Receiving stolen property more than \$10,000, Lottery alter/forge/utters/passes/counterfeits ticket | Robbery 2nd |
| 340411 | Fields | Cynthia | 06/12/25 | Madison | 23-CR-00317 | 04/28/30 | 05/28/26 | Manslaughter 2nd | Manslaughter 2nd |
| 326785 | Finch | Montrel | 07/15/24 | Jefferson | 22-CR-0279 | 06/26/29 | 05/04/25 | Complicity Robbery 2nd, Complicity Assault under extreme emotional disturbance, Criminal Facilitation Burglary 1st, Complicity Receiving stolen property less than \$10,000, Complicity Theft by unlaw taking or disposition less than \$10,000 | Complicity Robbery 2nd; Criminal Facilitation Burglary 1st |
| 339394 | Fizer | Donald | 03/11/25 | Kenton | 24-CR-00418 | 08/01/32 | 02/28/26 | Kidnapping-Adult and Strangulation 1st | Strangulation 1st |
| 338614 | Flewallen | Brandon | 02/17/25 | Jefferson | 23-CR-000839 | 12/26/28 | 09/26/25 | Assault 2nd, Tampering with physical evidence, Theft by unlawful taking less than \$10,000, Criminal mischief 1st, Escape 2nd identify facility | Assault 2nd (serious injuries) |
| 338251 | Flores | Victor | 01/24/25 | Fayette | 21-CR-00799 | 06/19/25 | 07/19/22 | Criminal Attempt Rape 1st, Sexual Abuse 1st | Criminal Attempt Rape 1st; Sexual Abuse 1st |
| 340705 | Floyd | Noah | 07/02/25 | Woodford | 23-CR-00059 | 09/30/33 | 03/30/25 | Robbery 2nd, Wanton endangerment 1st, Intimidating a participant in legal process | Robbery 2nd |
| 337712 | Forewright | Michael | 11/26/24 | Nelson | 20-CR-00130 | 08/24/28 | 05/24/25 | Sexual Abuse 1st victim under 12 | Sexual Abuse 1st victim under 12 |
| 342042 | Fox | Diana | 09/19/25 | Lee | 23-CR-00011 | 05/18/27 | 01/18/26 | Reckless Homicide | Reckless Homicide |
| 339119 | Fultz | Cameron | 03/21/25 | Rowan | 23-CR-173 | 06/01/29 | 03/06/27 | Kidnapping-minor, Rape 3rd, Custodial Interference-Felony | Rape 3rd |
| 338473 | Garner | Jeremy | 02/06/25 | Magoffin | 24-CR-00075 | 05/27/30 | 11/27/25 | Strangulation 1st | Strangulation 1st |

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| 227540 | Gerretson | Nathaniel | 07/16/25 | Grant | 24-CR-00048 | 01/07/31 | 10/07/25 | Strangulation 1st | Strangulation 1st |
| 340214 | Gibson | Mark | 05/27/25 | Morgan | 24-CR-00055 | 03/25/30 | 09/25/25 | Sexual Abuse 1st victim under 12, Tampering with public records | Sexual Abuse 1st victim under 12 |
| 341932 | Gibson | Tammy | 09/15/25 | Henderson | 24-CR-235 | 01/14/29 | 10/14/25 | Criminal Abuse 1st | Criminal Abuse 1st |
| 339674 | Gipson | Angel | 04/25/25 | Johnson | 23-CR-00093 | 09/05/28 | 06/05/25 | Strangulation 1st, Assault 3rd-Inmate assault on corrections employee | Strangulation 1st |
| 233333 | Glasper | Michael | 07/23/24 | McCracken | 22-CR-00627 | 08/01/26 | 05/29/23 | Trafficking controlled substance 1st, Tampering w/ Physical Evidence, Trafficking in Synthetic Drugs, 2nd offense, Trafficking Controlled Substance 1st, Wanton Endangerment 1st (Class C felony), Possession of Handgun by Convicted Felon, Tampering w/ Prisoner Monitoring Device, Wanton Endangerment (Class D) | Wanton Endangerment 1st (w/ discharge of a firearm) Class C felony |
| 337025 | Goforth | Colton | 10/29/24 | Anderson | 23-CR-00086 | 05/01/32 | 11/03/25 | Sexual Abuse 1st victim under 12 Sodomy 3rd, | Sexual Abuse 1st victim under 12 Sodomy 3rd; |
| 336175 | Gogo | Upenyu | 09/03/24 | Carter | 23-CR-00220 | 02/13/28 | 11/13/24 | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities |
| 342149 | Golden | Kijuan | 09/23/25 | Jefferson | 24-CR-002640 | 03/08/33 | 09/08/26 | Complicity Manslaughter 2d, Unlawfully provide/permit minor to possess handgun | Complicity Manslaughter 2nd |
| 163371 | Goldsberry | Brent | 08/28/25 | Jefferson | 24-CR-0900 | 05/19/28 | 02/19/25 | Strangulation 1st | Strangulation 1st |
| 337791 | Goodson | William | 12/16/24 | Laurel | 24-CR-00071 | 06/27/28 | 03/27/25 | Sexual Abuse 1st, Rape 3rd | Sexual Abuse 1st; Rape 3rd |
| 234157 | Goodwin | Erica | 04/17/25 | Clark | 23-CR-00032-002 | 09/01/28 | 11/09/25 | Reckless Homicide | Reckless Homicide |
| 339530 | Goodwin | Monica | 04/17/25 | Clark | 23-CR-00032-001 | 06/01/29 | 03/09/26 | Criminal Abuse 2nd child under 12, Manslaughter 2nd | Manslaughter 2nd |
| 342546 | Graves | Jonathan | 10/24/25 | Rockcastle | 24-CR-00093 | 10/09/28 | 07/09/25 | Rape 3rd | Rape 3rd |
| 295399 | Griffin | Marlon | 05/23/25 | Fayette | 21-CR-1262 | 11/18/28 | 05/18/24 | Assault 2nd (class c), Possession of handgun by convicted felon, Wanton endangerment 1st | Assault 2nd (class c) (serious injuries) |
| 339559 | Griffith | Chester | 04/18/25 | Carter | 23-CR-00052 | 11/24/29 | 08/24/24 | Sexual Abuse 1st victim under 12 (x2), Sexual Abuse 1st | Sexual Abuse 1st victim under 12 (x2); Sexual Abuse 1st |
| 338817 | Grimes | Christopher | 02/28/25 | Knox | 23-CR-00061 | 05/14/28 | 02/14/25 | Rape 3rd | Rape 3rd |
| 339845 | Grinstead | Keidrick | 01/08/25 | Jefferson | 23-CR-1471 | 07/17/30 | 01/17/25 | Manslaughter 2nd; Possession of Handgun by Minor; Receiving Stolen Property | Manslaughter 2nd |
| 336896 | Hall | William | 10/17/24 | Floyd | 22-CR-00388 | 03/11/31 | 09/11/24 | Flagrant non-support, Assault 2nd (class c), Unlawful imprisonment 1st, Strangulation 1st, Criminal Abuse 1st | Strangulation 1st, Criminal Abuse 1st |
| 336876 | Hall | Terry | 10/17/24 | Madison | 23-CR-00594 | 06/24/32 | 12/24/25 | Use of a minor under 18 in a sexual performance, Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities, Rape 3rd | Use of a minor under 18 in a sexual performance, Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities; Rape 3rd |
| 338663 | Hamilton | David | 02/20/25 | Madison | 23-CR-00593 | 09/18/27 | 09/18/25 | Rape 3rd, Sodomy 3rd, Possession of matter portraying sex performance by minor | Rape 3rd; Sodomy 3rd |
| 336541 | Hamlin | Patrick | 09/23/24 | Graves | 24-CR-00011 | 07/21/25 | 02/21/25 | Possession of matter portraying sex performance by minor, Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities |
| 302095 | Haney | Cody | 06/23/25 | Morgan | 22-CR-00097 | 03/01/26 | 12/03/25 | Trafficking controlled substance 1st 10 or more units PFO enhancement, Trafficking controlled substance 1st 10 or more units (x3), Reckless Homicide | Reckless Homicide |
| 246637 | Hardin | Terry | 04/21/25 | Warren | 24-CR-767 | 10/22/31 | 12/22/26 | Wanton Endangerment 1st, Robbery 2nd, Bail Jumping 1st | Robbery 2nd |

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| 339749 | Harman | Craig | 04/30/25 | Todd | 23-CR-00005 | 08/06/31 | 02/06/28 | Rape 3rd, Unlawful transaction with a minor 1st illegal sex act under 18, Use of a minor under 18 in a sexual performance, Unlawful transaction with a minor 1st illegal controlled substance under 18, Possession of matter portraying sex performance by minor (x2), Sexual Abuse 1st | Rape 3rd, Unlawful transaction with a minor 1st illegal sex act under 18, Use of a minor under 18 in a sexual performance, Sexual Abuse 1st |
| 337168 | Harmon | Joshua | 09/23/24 | Kenton | 24-CR-00182 | 01/03/41 | 01/03/28 | Criminal Attempt Murder, Criminal Attempt Arson 1st, Wanton endangerment 1st | Criminal Attempt Murder |
| 337525 | Hart | Nicholas | 11/26/24 | Barren | 22-CR-00546 | 06/14/31 | 03/16/26 | Criminal Abuse 1st child 12 or under | Criminal Abuse 1st child 12 or under |
| 338931 | Hart-Wright | Anthony | 10/23/25 | McCracken | 25-CR-00164 | 11/23/30 | 12/04/25 | Strangulation 1st, Trafficking controlled substance 1st methamphetamine 2 or more grams, Possession of controlled substance 1st opiates | Strangulation 1st |
| 337165 | Harville | Jonathan | 10/29/24 | Hardin | 23-CR-00489 | 12/02/31 | 06/02/25 | Wanton endangerment 1st, Unlawful imprisonment 1st, Criminal mischief 1st | Wanton endangerment 1st (class C) |
| 268995 | Hatcher | Gregory | 08/19/25 | Ohio | 24-CR-198 | 02/01/34 | 05/28/27 | Criminal Abuse 1st child 12 or under, Wanton endangerment 1st, Possession of controlled substance 1st methamphetamine (x2) | Criminal Abuse 1st child 12 or under |
| 195501 | Hatfield | Corey | 06/18/25 | Putaski | 24-CR-00287 | 08/27/31 | 05/27/26 | Sexual Abuse 1st | Sexual Abuse 1st |
| 331968 | Hawthorne | Kaitlyn | 04/17/25 | Carlisle | 23-CR-00019 | 12/01/27 | 09/18/24 | Sexual Abuse 1st | Sexual Abuse 1st |
| 343622 | Hayes | Luquan | 01/09/26 | Fayette | 24-CR-00147 | 06/29/32 | 12/29/25 | Manslaughter 2nd | Manslaughter 2nd |
| 342838 | Hendriksen | Jamie | 11/12/25 | Adair | 24-CR-00024 | 08/03/32 | 02/03/26 | Manslaughter 2nd | Manslaughter 2nd |
| 337371 | Hibbs | Jacob | 11/19/24 | Anderson | 23-CR-00096 | 12/26/28 | 01/26/25 | Rape 3rd, Sodomy 3rd (x2) | Rape 3rd, Sodomy 3rd (x2) |
| 343817 | Hill | Gerald | 12/08/25 | Franklin | 22-CR-00141 | 05/25/27 | 06/25/23 | Sexual Abuse 1st (x2) | Sexual Abuse 1st (x2) |
| 335723 | Himes | Joshua | 08/05/24 | Davless | 24-CR-00094 | 10/01/28 | 07/29/25 | Strangulation 1st | Strangulation 1st |
| 341924 | Hobbs | Justin | 09/15/25 | Nicholas | 23-CR-044 | 07/07/26 | 11/07/25 | Rape 3rd, Sodomy 3rd | Rape 3rd and Sodomy 3rd |
| 336530 | Hoffman | Steven | 09/24/24 | Edmonson | 23-CR-00027 | 12/16/29 | 09/16/24 | Sexual Abuse 1st (x2), Sexual Abuse 1st victim under 12 | Sexual Abuse 1st (x2), Sexual Abuse 1st victim under 12 |
| 336570 | Holland | Faith | 09/25/24 | Christian | 23-CR-00099 | 03/17/31 | 05/17/25 | Criminal Abuse 1st | Criminal Abuse 1st |
| 336902 | Hothaus | David | 02/06/25 | Boone | 24-CR-70 | 01/01/29 | 10/06/25 | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities, Strangulation 1st, | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities, Strangulation 1st |
| 323355 | Holzknacht | Anthony | 05/27/25 | Hardin | 24-CR-34 | 09/01/32 | 02/01/25 | Theft by unlawful taking or disposition less than \$10,000 | Strangulation 1st |
| 342451 | Hopkins | Delbert | 10/16/25 | Putaski | 23-CR-00333 | 08/14/27 | 05/14/24 | Sexual Abuse 1st victim under 12 | Sexual Abuse 1st victim under 12 |
| 338109 | Horn | Jerry | 01/15/25 | Boone | 23-CR-0814 | 09/23/26 | 09/23/24 | Theft by unlawful taking or disposition less than \$10,000, Theft by deception less than \$10,000, Sexual Abuse 1st | Sexual Abuse 1st |
| 338599 | Hostetter | Chad | 02/14/25 | Montgomery | 23-CR-00228 | 05/01/31 | 02/28/26 | Manslaughter 2nd | Manslaughter 2nd |
| 336650 | Howard | Ladreanna | 09/16/24 | Henderson | 24-CR-129 | 07/07/32 | 01/07/26 | Criminal Attempt Murder | Criminal Attempt Murder |
| 338928 | Howell | Dustin | 03/07/25 | Graves | 23CR432 | 09/10/30 | 06/10/25 | Burglary 3rd, Strangulation 1st, Assault 2nd-domestic violence (class c), Assault 3rd police | Strangulation 1st |
| 282829 | Howlett | Chelynda | 08/25/25 | Jefferson | 23-CR-0245 | 08/08/26 | 05/08/25 | Possession of Handgun by Convicted Felon x3; Promoting Contraband 1st; 1st Degree Possession- Carfentanyl or Fentanyl; Burglary 2nd; Reckless Homicide; Tampering with Physical Evidence | Reckless Homicide |
| 341196 | Hubbard | Jonathan | 08/04/25 | Whitley | 21-CR-00212 | 04/25/38 | 04/25/25 | Criminal Attempt Murder, Theft by unlawful taking or disposition less than \$10,000 | Criminal Attempt Murder |
| 265047 | Hunt | Joseph | 08/28/24 | Davless | 22-CR-00671 | 09/08/28 | 06/08/25 | Criminal possession forged instrument 2nd (x2), Robbery 2nd, | Robbery 2nd |
| 340589 | Hunter | Michael | 06/18/25 | Laurel | 20-CR-00246 | 03/12/29 | 09/12/22 | Burglary 2nd | Robbery 2nd |
| 141319 | Hutchison | Leonard | 06/27/25 | Gallatin | 21-CR-00021 | 08/18/28 | 05/18/25 | Sexual Abuse 1st victim under 12 | Sexual Abuse 1st victim under 12 |
| 288335 | Hypes | Aaron | 10/14/25 | Butler | 25-CR-00006 | 06/23/29 | 12/23/25 | Sexual Abuse 1st victim under 12 | Sexual Abuse 1st victim under 12 |
| 337439 | Jackson | Devon | 11/21/24 | Putaski | 23-CR-00334 | 08/28/27 | 05/28/24 | Reckless Homicide | Reckless Homicide |
| | | | | | | | | Sexual Abuse 1st victim under 12 | Sexual Abuse 1st victim under 12 |

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| 300447 | Jackson | Lashawa | 07/31/25 | Daviess | 23-CR-00988 | 03/25/28 | 12/25/24 | Rape 3rd, Unlawful transaction with a minor 1st illegal controlled substance under 18 | Rape 3rd |
| 338219 | Jackson | Tiffany | 01/23/25 | Hopkins | 24-CR-00276 | 08/15/28 | 05/15/25 | Criminal Abuse 1st | Criminal Abuse 1st |
| 337008 | Jackson | Marlon | 10/29/24 | Warren | 22-CR-01241 | 05/08/30 | 07/08/25 | Flagrant non-support, Promoting a sexual performance by a minor under 18, Rape 3rd | Promoting a sexual performance by a minor under 18; Rape 3rd |
| 338891 | Jackson | Austin | 03/06/25 | Martin | 23-CR-00040 | 11/07/31 | 03/06/26 | Rape 2nd (mentally incapacitated by intoxicating substance) (x2), Unlawful transaction with a minor 2nd (x2) | Rape 2nd (mentally incapacitated by intoxicating substance) (x2) |
| 337945 | Jackson | Brandon | 01/03/25 | Boyd | 24-CR-00018 | 12/08/29 | 08/08/26 | Criminal Abuse 1st, Trafficking controlled substance 1st methamphetamine | Criminal Abuse 1st |
| 343173 | Jackson | Curtis | 12/05/25 | Madison | 24-CR-00472 | 05/15/31 | 09/15/26 | Manlaughter 2nd, Possession controlled substance 1st methamphetamine | Manslaughter 2nd |
| 323278 | Johnson | Jaikorian | 11/15/24 | Daviess | 21-CR-00342 | 10/16/29 | 11/24/23 | Manlaughter 2nd, Wanton Endangerment 1st | Manslaughter 2nd |
| 323188 | Johnson | Micky | 08/06/24 | Caldwell | 23-CR-00037 | 01/06/28 | 10/06/24 | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities, Criminal solicitation unlawful transaction with a minor 1st illegal sex act under 16 | Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities; Criminal solicitation unlawful transaction with a minor 1st illegal sex act under 16 |
| 339433 | Johnson | Simeyon | 05/23/25 | Franklin | 23-CR-368 | 05/23/32 | 11/23/25 | Manlaughter 2nd, Promoting contraband 1st (class d) | Manslaughter 2nd |
| 336432 | Johnson | Jaden | 10/24/25 | Christian | 24-CR-00586 | 03/26/29 | 12/26/25 | Manlaughter 2nd | Manslaughter 2nd |
| 324968 | Jones | Clifton | 07/24/25 | Jefferson | 19-CR-002170-002 | 11/03/27 | 05/29/24 | Manlaughter 2nd, Possession of handgun by convicted felon, Complicity receiving stolen property (firearm) | Manslaughter 2nd |
| 332759 | Jones | Lyntez | 07/22/24 | Shelby | 23-CR-00068 | 02/01/28 | 11/03/24 | Robbery 2nd | Robbery 2nd |
| 212236 | Jones | Delieto | 11/13/24 | Madison | 23-CR-00599 | 10/14/26 | 10/14/26 | Strangulation 1st (x2), Promoting contraband 1st (class d) | Strangulation 1st (x2) |
| 188008 | Kassingier | Kevin | 10/17/24 | Daviess | 24-CR-00308 | 11/02/32 | 03/02/26 | Robbery 2nd | Robbery 2nd |
| 339895 | Kentfield | Jonathan | 05/08/25 | Crittenden | 24-CR-00001 | 02/01/26 | 06/24/25 | Sexual Abuse 1st | Sexual Abuse 1st |
| 260132 | Kindle | Joshua | 05/28/25 | Graves | 24-CR-00152 | 10/01/28 | 03/29/25 | Rape 3rd, Robbery 2nd, Possession of handgun by convicted felon (x2), Trafficking controlled substance 1st methamphetamine | Rape 3rd |
| 340286 | King | Jared | 06/04/25 | McCracken | 22-CR-00534 | 10/18/30 | 04/18/24 | Manlaughter 2nd, Wanton endangerment 1st, Criminal mischief 1st | Manslaughter 2nd |
| 337365 | Kyzar | John | 11/04/24 | Bullitt | 23-CR-00304 | 03/01/32 | 09/28/25 | Sexual abuse 1st victim under 12 | Sexual abuse 1st victim under 12 |
| 340496 | Lamar | Brandin | 06/17/25 | Ohio | 24-CR-00265 | 02/06/30 | 03/06/26 | Sexual abuse 1st | Sexual abuse 1st |
| 289210 | Langley | Demontre | 02/12/25 | Henderson | 24-CR-413 | 03/01/30 | 11/05/25 | Trafficking Controlled Substance 1st; Theft by Unlawful Taking x2; Criminal Mischief 1st; Assault Under Extreme Emotional Disturbance; Robbery 2nd; Possession of Handgun by Convicted Felon x2; Receiving Stolen Property; Trafficking in Marijuana | Robbery 2nd |
| 185577 | Lawrence | Floyd | 07/01/25 | Daviess | 23-CR-788 | 03/29/26 | 03/29/24 | Sexual abuse 1st | Sexual abuse 1st |
| 338850 | Lee | Steven | 05/09/25 | Shelby | 23-CR-00279 | 08/01/30 | 05/17/25 | Rape 3rd, Sodomy 3rd | Rape 3rd and Sodomy 3rd |
| 336264 | Leguillon | John | 09/03/24 | Kenton | 23-CR-750 | 03/05/28 | 12/05/24 | Prohibited Use of Electronic Communication System to Procure a Minor | Prohibited Use of Electronic Communication System to Procure a Minor |
| 336836 | Leonard | Lonnie | 10/15/24 | Warren | 23-CR-00787-002 | 05/06/40 | 05/06/27 | Manlaughter 2nd, Knowingly abuse/neglecting an adult | Manslaughter 2nd |
| 338511 | Lian | Khai | 02/11/25 | Warren | 23-CR-00519 | 03/11/29 | 03/11/29 | Trafficking controlled substance 1st (fentanyl), Manlaughter 2nd | Manslaughter 2nd |
| 340612 | Lindsey | Bradley | 06/26/25 | Madison | 23-CR-00324 | 07/16/27 | 04/16/24 | Rape 3rd, Sodomy 3rd, Sexual Abuse 1st | Rape 3rd, Sodomy 3rd, Sexual Abuse 1st |
| 336082 | Long | Kevin | 08/19/24 | Campbell | 23-CR-00189 | 01/23/29 | 07/23/24 | Strangulation 1st | Strangulation 1st |
| 341155 | Long | Bobby | 08/01/25 | Franklin | 24-CR-00002 | 06/08/32 | 12/08/25 | Manlaughter 2nd | Manslaughter 2nd |

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| 183388 | Lockett | Douglas | 08/02/24 | Scott | 23-CR-00087 | 02/02/30 | 03/13/25 | Manlaughter 2nd, tampering with physical evidence, Possession of firearm by a convicted felon | Manlaughter 2nd |
| 340017 | Lykins | Charles | 05/15/25 | Fayette | 23-CR-00388 | 01/12/32 | 10/12/26 | Strangulation 1st, unlawful imprisonment 1st, wanton endangerment 1st | Strangulation 1st |
| 341378 | Maddox | Lapriest | 08/04/25 | Jefferson | 24-CR-001229 | 06/30/29 | 08/30/26 | Assault 2nd, possession of handgun by convicted felon, wanton endangerment 1st, strangulation 1st | Strangulation 1st |
| 335860 | Madison | Patrick | 08/06/24 | Ohio | 22-CR-00047 | 10/22/28 | 07/22/25 | Strangulation 1st, bail jumping 1st | Strangulation 1st |
| 333303 | Majoreta | Angelo | 06/09/25 | Kenton | 23-CR-645 | 12/09/33 | 02/28/26 | Rape 3rd (x2) | Rape 3rd (x2) |
| 336142 | Malloy | Jared | 08/29/24 | Boone | 23-CR-00862 | 04/06/32 | 10/07/25 | Criminal abuse 1st | Criminal abuse 1st |
| 337191 | Malone | Jason | 11/07/24 | Calloway | 23-CR-00041 | 05/29/28 | 11/29/23 | Sexual abuse 1st, rape 3rd | Sexual abuse 1st, rape 3rd |
| 343054 | Mann | James | 11/25/25 | McCracken | 22-CR-01051 | 06/15/27 | 03/15/26 | Sexual abuse 1st | Sexual abuse 1st |
| 336624 | Marcum | Robert | 10/01/24 | Jackson | 22-CR-00037 | 01/07/31 | 07/07/24 | Sodomy 2nd | Sodomy 2nd |
| 339328 | Marshall | Seth | 04/03/25 | Hickman | 25-CR-00006 | 01/01/32 | 10/02/26 | Strangulation 1st, wanton endangerment 1st | Strangulation 1st |
| 242737 | Martin | Clyde | 09/09/25 | Butler | 24-CR-00043 | 05/26/42 | 10/23/35 | Sexual abuse 1st victim under 12, Possession of firearm by convicted felon, operating a motor vehicle under the influence | Sexual abuse 1st victim under 12 |
| 300001 | Martin | Joseph | 08/07/25 | Jefferson | 23CR2168 | 08/02/29 | 02/02/25 | Manlaughter 2nd, leaving scene of an accident/failing to render aid | Manlaughter 2nd |
| 336556 | Martinez | Nathaniel | 09/06/24 | Jefferson | 23CR1855 | 11/15/27 | 08/15/27 | Manlaughter 2nd, Wanton endangerment 1st, Criminal mischief 1st | Manlaughter 2nd |
| 338827 | Massey | Damion | 02/24/25 | Jefferson | 23-CR-1960 | 05/01/36 | 08/19/26 | Robbery 2nd, complicity to robbery 2nd (x2) | Robbery 2nd |
| 202374 | Mayfield | Robert | 09/30/24 | Daviess | 23-CR-00394 | 02/10/29 | 08/08/24 | Strangulation 1st | Strangulation 1st |
| 339432 | Mays | Michael | 04/10/25 | Madison | 23-CR-00214-001 | 03/01/28 | 07/20/24 | Criminal attempt rape 1st, Criminal attempt incest with forcible compulsion or under 18, sexual abuse 1st, tampering with witness | Criminal attempt rape 1st, criminal attempt incest forcible compulsion or under 18, sexual abuse 1st |
| 027290 | Mcadoo | Barry | 09/10/24 | Adair | 24-CR-00012 | 10/01/29 | 04/26/25 | Strangulation 1st; Assault 2nd (Domestic Violence); Unlawful Imprisonment 1st; | Strangulation 1st |
| 335955 | McCampbell | Shyheim | 08/19/24 | Graves | 21-CR-00403 | 10/08/36 | 03/08/27 | Possession of controlled substance 1st (methamphetamine), sexual abuse 1st victim under 12 (x2) | Sexual abuse 1st victim under 12 (x2) |
| 300217 | McCoy | Tamara | 04/24/25 | Cumberland | 24-CR-00051 | 04/25/33 | 10/25/26 | Criminal abuse 1st | Criminal abuse 1st |
| 260624 | McDowell | Robert | 04/24/25 | Jefferson | 21-CR-001166 | 09/25/29 | 10/25/23 | Manlaughter 2nd, possession of firearm by convicted felon | Manlaughter 2nd |
| 335623 | McFadden | Jacob | 11/05/25 | Breckinridge | 21-CR-00083 | 12/19/28 | 09/19/25 | Strangulation 1st, assault 2nd (class D) | Strangulation 1st |
| 338465 | McQueen | Steven | 02/06/25 | Oldham | 23-CR-00068 | 10/06/34 | 12/08/25 | Sexual abuse 1st victim under 12 (x2) | Sexual abuse 1st victim under 12 (x2) |
| 322344 | McQuillan | Joseph | 09/26/24 | Jefferson | 24-CR-001379 | 08/10/28 | 05/10/26 | Robbery 2nd, possession of handgun by convicted felon, fleeing or evading police 1st | Robbery 2nd |
| 337376 | Meade | Robert | 11/13/24 | Letcher | 21-CR-211 | 12/01/28 | 09/01/25 | Sexual abuse 1st | Sexual abuse 1st |
| 339664 | Meagher | Sierra | 04/25/25 | Johnson | 22-CR-00029 | 10/15/34 | 01/15/25 | Burglary 1st, theft by unlawful taking | Burglary 1st (another person present during offense) |
| 337923 | Mentzer | Randall | 12/03/24 | Kenton | 24-CR-144 | 10/14/30 | 07/14/25 | Robbery 2nd | Robbery 2nd |
| 337113 | Middleton | Wendell | 11/04/24 | Carter | 23-CR-00130 | 09/20/27 | 06/20/24 | Sodomy 2nd | Sodomy 2nd |
| 338635 | Miller | Machir | 01/31/25 | Jefferson | 23-CR-002067 | 04/08/32 | 10/08/25 | Manlaughter 2nd, Wanton endangerment 1st | Manlaughter 2nd |
| 319552 | Mills | Brandon | 10/13/25 | Knox | 23-CR-00098 | 05/30/28 | 06/30/24 | Rape 3rd with PFO enhancement | Rape 3rd |
| 337931 | Mills | Deidra | 01/02/25 | Daviess | 24-CR-00285 | 08/30/26 | 05/31/25 | Sexual abuse 1st | Sexual abuse 1st |
| 178046 | Mills | Jacob | 11/03/25 | Hopkins | 24-CR-291 | 12/16/33 | 03/20/27 | Strangulation 1st, flagrant non support | Strangulation 1st |
| 314902 | Mitchell | Timothy | 08/27/24 | Jefferson | 24-CR-00022 | 11/18/28 | 08/18/25 | Prohibited use of electronic comm system to proc minor (x2) | Prohibited use of electronic comm system to proc minor (x2) |
| 307980 | Montgomery | Cody | 06/17/25 | Boyle | 23-CR-00041 | 10/22/31 | 04/22/25 | Criminal abuse 1st | Criminal abuse 1st |
| 100842 | Moore | Nathan | 12/05/25 | McCracken | 21-CR-01063 | 07/21/34 | 12/18/31 | Robbery 2nd, criminal possession of a forged instrument 2nd | Robbery 2nd |
| 336064 | Moore | Tristen | 08/26/24 | Laurel | 23-CR-167 | 12/16/28 | 10/16/24 | Sexual abuse 1st victim under 12 | Sexual abuse 1st victim under 12 |

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| 337393 | Moore | Jesse | 11/20/24 | Powell | 22-CR-186 | 04/21/31 | 10/21/24 | Incest, rape 2nd | Incest, Rape 2nd |
| 339269 | Moore | Clarence | 07/24/25 | Oldham | 25-CR-00166 | 01/03/32 | 07/03/25 | Unlawful transaction with a minor 1st (x2), rape 3rd (x2), sexual abuse 1st (x2), sodomy 3rd (x2) | Unlawful transaction with a minor 1st (x2), rape 3rd (x2), sexual abuse 1st (x2), sodomy 3rd (x2) |
| 337170 | Morton | Billy | 11/04/24 | Boyle | 23-CR-00256 | 12/14/27 | 09/14/24 | Sexual abuse 1st victim under 12 | Sexual abuse 1st victim under 12 |
| 340238 | Newell | Caleb | 05/29/25 | Davies | 23-CR-00835 | 10/16/27 | 07/16/24 | Rape 2nd, sodomy 2nd | Rape 2nd, sodomy 2nd |
| 339549 | Niang | Diamil | 04/17/25 | Boone | 23-CR-00846 | 04/18/26 | 04/23/24 | Sexual abuse 1st | Sexual abuse 1st |
| 342302 | Nisbett | Michael | 10/07/25 | Hardin | 23-CR-00301 | 04/02/31 | 10/02/26 | Strangulation 1st, criminal mischief 1st | Strangulation 1st |
| 253639 | Noonan | Jarodd | 12/30/24 | Graves | 23-CR-00134 | 05/01/28 | 10/05/25 | Sexual abuse 1st, possession of matter portraying a sexual performance by a minor, promoting human trafficking victim under 18, tampering with physical evidence | Sexual abuse 1st |
| 337290 | Oaks | Brennan | 11/14/24 | Madison | 24-CR-00151 | 04/18/28 | 06/18/25 | Strangulation 1st, strangulation 2nd, assault 2nd | Strangulation 1st |
| 112982 | Ogle | William | 06/23/25 | Henderson | 25-CR-072 | 02/14/29 | 11/14/25 | Sexual abuse 1st, intimidating a participant in a legal process | Sexual abuse 1st |
| 327179 | Osborne | Gregory | 09/16/25 | Morgan | 22-CR-00027 | 07/29/30 | 01/29/24 | Criminal attempt murder, strangulation 1st | Criminal attempt murder, strangulation 1st |
| 297309 | Osborne | Chase | 06/13/25 | Montgomery | 24-CR-00087 | 12/15/37 | 12/01/32 | Manslaughter 2nd, trafficking controlled substance 1st (fentanyl) | Manslaughter 2nd |
| 207588 | Overstreet | Quentin | 10/24/25 | Jessamine | 20-CR-00149 | 02/27/42 | 02/27/35 | Manslaughter 2nd | Manslaughter 2nd |
| 341925 | Overton | Russell | 09/15/25 | Bell | 23-CR-00297 | 02/09/30 | 11/09/24 | Unlawful transaction with a minor 1st | Unlawful transaction with a minor 1st |
| 336738 | Owens | Kevin | 10/02/24 | Campbell | 24-CR-00249 | 04/06/30 | 10/06/25 | Strangulation 1st | Strangulation 1st |
| 337554 | Palacios | Enrique | 12/02/24 | Whitley | 24-CR-215 | 02/20/32 | 08/20/25 | Rape 3rd, sodomy 3rd | Rape 3rd, sodomy 3rd |
| 343422 | Palmer | Haoliver | 12/17/25 | Jefferson | 24-CR-001324 | 12/13/28 | 09/13/25 | Robbery 2nd | Robbery 2nd |
| 336381 | Parkest | Bradley | 09/16/24 | Hopkins | 23-CR-00373 | 06/01/26 | 06/01/24 | Sexual abuse 1st | Sexual abuse 1st |
| 152359 | Patterson | Michael | 11/14/24 | Bullitt | 23-CR-00267 | 12/24/31 | 06/24/25 | Sexual abuse 1st victim under 12 | Sexual abuse 1st victim under 12 |
| 337785 | Patton | Chad | 12/16/24 | Warren | 24-CR-00327 | 02/15/29 | 11/15/25 | Prohibited use of electronic comm system to proc minor | Prohibited use of electronic comm system to proc minor |
| 340362 | Payne | Larry | 06/09/25 | Henderson | 25-CR-00025 | 03/16/26 | 07/19/25 | Sodomy 3rd | Sodomy 3rd |
| 340513 | Perates | Dale | 06/18/25 | Clinton | 24-CR-00094 | 03/19/35 | 06/19/27 | Sexual abuse 1st victim under 12, rape 3rd | Sexual abuse 1st victim under 12, rape 3rd |
| 338129 | Perry | John | 01/16/25 | Martin | 23-CR-00097 | 12/23/28 | 09/23/25 | Sexual abuse 1st | Sexual abuse 1st |
| 336167 | Pickett | Deondre | 08/29/24 | Fayette | 22-CR-00830 | 09/23/26 | 06/23/23 | Sexual abuse 1st | Sexual abuse 1st |
| 318792 | Pickett | Jonathan | 10/07/24 | Boone | 23-CR-00758 | 06/16/32 | 12/19/25 | Complicity to manslaughter 2nd, trafficking in controlled substance 1st (x2), possession of a controlled substance 1st (x2), bail jumping 1st | Manslaughter 2nd |
| 337724 | Porter | Damian | 12/12/24 | McCracken | 24-CR-00636 | 08/03/29 | 09/03/25 | Strangulation 1st, fleeing or evading police 1st, criminal mischief 1st, unlawful imprisonment 1st | Strangulation 1st |
| 343836 | Porter-Bunton | Christopher | 01/27/26 | Warren | 25-CR-123 | 03/30/30 | 12/30/26 | Sexual abuse 1st | Sexual abuse 1st |
| 339997 | Quarles | Darrian | 05/15/25 | Logan | 24-CR-00060 | 07/04/32 | 01/04/26 | Strangulation 1st | Strangulation 1st |
| 236261 | Rabe | William | 02/24/25 | Kenton | 23-CR-1100 | 04/01/29 | 04/11/25 | Sexual abuse 1st, operating a motor vehicle under the influence | Sexual abuse 1st |
| 341013 | Rahming | Jonathan | 07/23/25 | Scott | 22-CR-00096 | 08/20/27 | 09/20/23 | Robbery 2nd | Robbery 2nd |
| 266365 | Rapp | Chris | 08/27/25 | Jefferson | 24-CR-001042 | 06/22/28 | 03/22/25 | Robbery 2nd | Robbery 2nd |
| 339899 | Ratliff | Anthony | 05/08/25 | Fayette | 23-CR-00109 | 06/01/31 | 10/09/27 | Unlawful transaction with a minor 2nd, rape 2nd, tampering with physical evidence, possession of a controlled substance 1st (methamphetamine) | Rape 2nd |
| 298035 | Rauh | Brandon | 09/11/25 | Greenup | 23-CR-00118 | 01/06/28 | 10/06/24 | Strangulation 1st, tampering with a witness | Strangulation 1st |
| 338996 | Ray | Adam | 03/13/25 | Greenup | 22-CR-00077 | 09/13/32 | 04/09/26 | Kidnapping adult, strangulation 1st | Kidnapping adult, strangulation 1st |
| 339979 | Reed | Curtis | 05/05/25 | Campbell | 24-CR-00216 | 07/03/29 | 08/03/25 | Sexual abuse 1st (x2) | Sexual abuse 1st (x2) |
| 338602 | Reitz | Karson | 02/13/25 | Jefferson | 22-CR-000311 | 05/01/36 | 05/06/25 | Manslaughter 2nd (x2), wanton endangerment 1st | Manslaughter 2nd (x2) |

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| 233894 | Riggs | Robert | 03/24/25 | Jefferson | 23CR1885 | 05/05/28 | 02/05/25 | Strangulation 1st | Strangulation 1st |
| 334751 | Riggs | Christopher | 08/22/25 | Larue | 23-CR-00029 | 01/15/29 | 10/15/25 | Sexual abuse 1st | Sexual abuse 1st |
| 207447 | Riley | Robert | 11/03/25 | Calloway | 24-CR-00307 | 05/01/29 | 11/01/24 | Robbery 2nd | Robbery 2nd |
| 337429 | Rister | John | 11/21/24 | Nelson | 21-CR-262 | 09/10/28 | 12/10/27 | Bail jumping 1st, incest, sexual abuse 1st victim under 12 | Incest, sexual abuse 1st victim under 12 |
| 335751 | Roberts | Billie | 08/06/24 | Taylor | 24-CR-015 | 06/03/32 | 12/03/26 | Manslaughter 2nd, assault 2nd | Manslaughter 2nd |
| 339299 | Robinson | Tommy | 12/02/25 | Caldwell | 24-CR-00020 | 09/15/29 | 06/15/26 | Manslaughter 2nd | Manslaughter 2nd |
| 265027 | Rogers | Clarence | 08/06/24 | Harrison | 22-CR-00060 | 02/26/35 | 05/26/25 | Sexual abuse 1st victim under 12, sexual abuse 1st, sodomy 2nd | Sexual abuse 1st victim under 12, sexual abuse 1st, sodomy 2nd |
| 336942 | Rowe | William | 10/24/24 | Cumberland | 24-CR-00022 | 09/19/24 | 02/17/25 | Sexual abuse 1st | Sexual abuse 1st |
| 319598 | Rudolph | Daryinota | 10/03/24 | Cartisle | 23-CR-00056 | 06/21/37 | 09/21/27 | Unlawful transaction with a minor 1st, use of a minor in a sexual performance | Unlawful transaction with a minor 1st, use of a minor in a sexual performance |
| 338033 | Saint | James | 01/13/25 | Davies | 21-CR-00021 | 03/08/41 | 03/08/28 | Rape 2nd, sexual abuse 1st | Rape 2nd, sexual abuse 1st |
| 336604 | Sallee | Richard | 09/30/24 | Marion | 23-CR-0178 | 03/13/28 | 12/13/24 | Sexual abuse 1st victim under 12 | Sexual abuse 1st victim under 12 |
| 337373 | Salley | Clyde | 11/19/24 | Anderson | 23-CR-00040 | 08/29/27 | 05/29/24 | Unlawful transaction with a minor 1st | Unlawful transaction with a minor 1st |
| 336525 | Salyer | Kathy | 09/24/24 | Floyd | 20-CR-00203 | 08/06/29 | 05/06/24 | Complicity to sodomy 2nd | Sodomy 2nd |
| 340536 | Salyers | Joshua | 06/20/25 | Rowan | 21-CR-00233 | 03/03/28 | 12/26/24 | Sexual abuse 1st victim under 12 | Sexual abuse 1st victim under 12 |
| 207817 | Sandifer | Danny | 08/07/25 | Boyle | 24-CR-00143 | 04/23/31 | 01/23/26 | Strangulation 1st | Strangulation 1st |
| 255961 | Saylor | William | 07/16/25 | Harlan | 22-CR-00254 | 06/30/27 | 10/22/24 | Sexual abuse 1st victim under 12, unlawful imprisonment 1st, wanton endangerment 1st, possession of a firearm by a convicted felon, possession of a controlled substance 1st | Sexual abuse 1st victim under 12 |
| 338721 | Scarborough | Samuel | 02/25/25 | Warren | 24-CR-00563 | 12/20/32 | 06/20/26 | Sexual abuse 1st victim under 12 | Sexual abuse 1st victim under 12 |
| 338508 | Scarborough | Tyler | 02/11/25 | McCracken | 23-CR-00966-001 | 05/01/29 | 10/29/26 | Trafficking in a controlled substance 1st (fentanyl derivatives), manslaughter 2nd | Manslaughter 2nd |
| 342155 | Self | Ricky | 09/29/25 | Graves | 23-CR-00152 | 12/14/29 | 01/14/26 | Rape 2nd | Rape 2nd |
| 341749 | Sherrod | Jaila | 09/04/25 | Christian | 22-CR-00218 | 09/20/29 | 06/20/27 | Criminal facilitation of murder, complicity tampering with physical evidence | Murder (criminal facilitation) |
| 340653 | Shouse | Dexter | 06/27/25 | Franklin | 24-CR-00159 | 06/15/27 | 02/15/25 | Sexual abuse 1st (x2) | Sexual abuse 1st (x2) |
| 340654 | Shouse | Perry | 06/27/25 | Franklin | 24-CR-00183 | 05/17/41 | 06/27/26 | Sexual abuse 1st victim under 12 (x5) | Sexual abuse 1st victim under 12 (x5) |
| 342219 | Sigler | Nathan | 10/02/25 | Webster | 24-CR-00079 | 09/16/28 | 06/16/25 | Rape 2nd | Rape 2nd |
| 336664 | Sisman | Brady | 10/03/24 | Madison | 22-CR-00179 | 02/28/28 | 04/28/25 | Sexual abuse 1st, possession matter portraying a sexual performance by minor (x2), tampering with physical evidence | Sexual abuse 1st |
| 127171 | Smallwood | Sean | 07/16/25 | Boyle | 24-CR-17 | 02/13/32 | 10/03/25 | Assault on corrections employee 3rd, assault 2nd, strangulation 1st, possession of handgun by a convicted felon | Strangulation 1st |
| 337650 | Smith | Thomas | 12/09/24 | Scott | 24-CR-036 | 03/14/28 | 12/14/24 | Unlawful transaction with a minor 1st, sodomy 3rd, rape 3rd | Unlawful transaction with a minor 1st, sodomy 3rd, rape 3rd |
| 339335 | Smith | Amber | 04/03/25 | Putaski | 24-CR-00192-002 | 08/04/28 | 05/04/25 | Criminal abuse 1st | Criminal abuse 1st |
| 338012 | Smith | Derrion | 01/08/25 | Christian | 24-CR-00153 | 11/11/29 | 05/11/25 | Robbery 2nd | Robbery 2nd |
| 322168 | Smith | Jordan | 07/25/24 | Henderson | 24-CR-279 | 03/17/30 | 09/17/25 | Robbery 2nd, possession of handgun by convicted felon | Robbery 2nd |
| 336092 | Smith | Melinda | 08/27/24 | Warren | 23-CR-00665 | 05/28/31 | 02/28/26 | Criminal abuse 1st | Criminal abuse 1st |
| 274221 | Snow | Shane | 01/10/25 | Fayette | 23-CR-01006 | 05/01/30 | 02/28/25 | Rape 3rd, sodomy 3rd | Rape 3rd, sodomy 3rd |
| 300463 | Soward | Robert | 07/21/25 | Jefferson | 24-CR-000904 | 04/21/38 | 08/05/34 | Poss controlled substance 1st (methamphetamine), robbery 2nd, possession of handgun by convicted felon | Robbery 2nd |
| 340834 | Sparks | Ronald | 07/11/25 | Lincoln | 24-CR-00056 | 08/18/32 | 02/18/26 | Prohibited use of electronic comm system to proc minor | Prohibited use of electronic comm system to proc minor |
| 337751 | Spaulding | Charles | 12/11/24 | Christian | 23-CR-394 | 04/22/29 | 10/22/24 | Sodomy 2nd, sexual abuse 1st | Sodomy 2nd, sexual abuse 1st |
| 336189 | Stokes | William | 09/04/24 | Todd | 23-CR-00025 | 03/30/26 | 12/30/24 | Sodomy 3rd | Sodomy 3rd |
| 339244 | Stults | Jeffrey | 11/18/25 | Jefferson | 20-CR-00970 | 06/20/28 | 04/29/25 | Promoting human trafficking, manslaughter 2nd | Manslaughter 2nd |
| 337958 | Terry | Kaleb | 01/07/25 | McCracken | 23-CR-00407 | 03/15/29 | 09/15/24 | Rape 3rd, sodomy 3rd | Rape 3rd, sodomy 3rd |
| 307314 | Thomas | Franklin | 08/23/24 | Fayette | 23-CR-00891 | 01/17/32 | 07/17/25 | Strangulation 1st | Strangulation 1st |

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| 332078 | Thomas | Ronald | 03/17/25 | Jefferson | 23-CR-002288 | 01/21/32 | 01/14/26 | Possession of firearm by convicted felon (x2), Robbery 2nd, Possession of controlled substance 1st, receiving stolen property between \$1000 and \$10000, possession of marijuana | Robbery 2nd |
| 340276 | Thomas | Alonzo | 05/29/25 | Jefferson | 24CR2096 | 06/13/30 | 12/13/26 | Manlaughter 2nd, tampering with physical evidence | Manslaughter 2nd |
| 338680 | Thompson | Chance | 02/21/25 | Lewis | 23-CR-00014 | 01/08/29 | 11/08/24 | Sexual abuse 1st victim under 12 (x2) | Sexual abuse 1st victim under 12 (x2) |
| 335575 | Tolson | Bryan | 07/22/24 | Morgan | 24-CR-00013 | 06/18/32 | 12/18/25 | Sexual abuse 1st, rape 2nd, possession of matter portraying sexual performance by a minor | Sexual abuse 1st, rape 2nd |
| 320863 | Turner | Deonte | 08/23/24 | Fayette | 19-CR-0048 | 02/13/26 | 02/13/24 | Sexual abuse 1st | Sexual abuse 1st |
| 338670 | Turner | Connie | 02/20/25 | Madison | 23-CR-00275-003 | 09/21/31 | 03/29/25 | Criminal facilitation of sodomy (x2), criminal abuse 1st child 12 or under Manlaughter 2nd, | Criminal abuse 1st child 12 or under |
| 279940 | Turner | Robert | 05/21/25 | Boone | 24-CR-00609 | 06/05/30 | 05/05/27 | trafficking controlled substance 1st, possession controlled substance 1st, possession of handgun by a convicted felon, possession of firearm trafficking controlled substance 1st, promoting contraband, using restricted ammo during felony (no shots) | Manslaughter 2nd |
| 257460 | Tye | David | 10/16/25 | Madison | 23-CR-00616 | 12/24/27 | 09/24/24 | Strangulation 1st, unlawful imprisonment 1st | Strangulation 1st |
| 341571 | Tyler | Shawn | 08/18/25 | Jefferson | 21-CR-001682 | 04/10/33 | 03/10/24 | Manlaughter 2nd, assault 2nd | Manslaughter 2nd |
| 338669 | Vasquez | Jennifer | 02/20/25 | Madison | 23-CR-00275-002 | 09/29/31 | 03/29/25 | Criminal facilitation of sodomy (x2), criminal abuse 1st child 12 or under | Criminal abuse 1st child 12 or under |
| 337362 | Vaught | Michael | 11/04/24 | Campbell | 23-CR-00602 | 02/16/28 | 01/16/25 | Sexual abuse 1st, video voyeurism | Sexual abuse 1st |
| 339117 | Waford | Jason | 03/21/25 | Jessamine | 20-CR-199 | 07/04/37 | 07/05/24 | Rape 2nd, sodomy 2nd, rape 3rd, sodomy 3rd, sexual abuse 1st | Rape 2nd, sodomy 2nd, rape 3rd, sodomy 3rd, sexual abuse 1st |
| 197935 | Wahl | Randall | 01/22/25 | Daviess | 22-CR-00753 | 04/22/29 | 03/22/26 | Rape 3rd, failure to comply with sex offender registry | Rape 3rd |
| 188516 | Warner | Samuel | 08/05/25 | Estill | 23-CR-00132 | 11/05/29 | 10/29/27 | Incest, use of a minor in a sexual performance, strangulation 1st (x2) | Incest, use of a minor in a sexual performance, strangulation 1st (x2) |
| 324254 | Weinel | Jared | 08/28/24 | Campbell | 24-CR-00086 | 10/03/26 | 10/03/24 | Prohibited use of elec comm system to proc minor, felony custodial interference | Prohibited use of elec comm system to proc minor, felony custodial interference |
| 341914 | Wendelgast | Linda | 09/10/25 | Jefferson | 25-CR-000830-002 | 05/19/32 | 11/19/25 | Complicity to criminal abuse 1st | Criminal Abuse 1st |
| 339659 | Wendelgast | Jeremy | 09/10/25 | Jefferson | 25-CR-830-1 | 12/17/41 | 12/17/28 | Complicity to criminal abuse 1st, sexual abuse 1st victim under 12, wanton endangerment 1st | Criminal Abuse 1st, Sexual abuse 1st victim under 12 |
| 337869 | Whitfield | Jacob | 12/19/24 | Butler | 23-CR-00072 | 06/01/32 | 11/26/26 | Manlaughter 2nd, wanton endangerment 1st | Manslaughter 2nd |
| 337954 | Whitlow | William | 01/07/25 | Hart | 24-CR-00071 | 01/13/28 | 10/11/24 | Rape 3rd | Rape 3rd |
| 167492 | Whittamore | James | 03/06/25 | Madison | 23-CR-551 | 10/01/31 | 04/02/25 | Sexual abuse 1st, sexual abuse 1st victim under 12, strangulation 2nd | Sexual abuse 1st, sexual abuse 1st victim under 12 |
| 285691 | Willard | Michael | 03/05/25 | Christian | 24-CR-494 | 04/01/36 | 06/24/24 | Sexual abuse 1st victim under 12, criminal possession forged instrument, possession of firearm by convicted felon (x2), possession controlled substance 1st (methamphetamine) (x2), tampering with physical evidence | Sexual abuse 1st victim under 12 |
| 321697 | Williams | Jacob | 03/26/25 | Christian | 23-CR-00325 | 12/29/28 | 09/29/25 | Robbery 2nd, promoting contraband 1st | Robbery 2nd |

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|--------|------------|---------|----------|------------|----------------|----------|----------|---|---|
| | | | | | | | | Carry concealed deadly weapon, possession of firearm by convicted felon, using restricted ammo during felony (no shots), sexual abuse 1st, burglary 2nd (x2), sexual abuse 1st victim under 12, promoting contraband 1st | Sexual abuse 1st, sexual abuse 1st victim under 12 |
| 239661 | Willingham | Dedrick | 10/02/24 | Christian | 22-CR-00620 | 06/25/29 | 08/23/23 | | |
| 338780 | Wilson | Larry | 02/27/25 | Franklin | 22-CR-00128 | 03/25/28 | 02/25/24 | Sexual abuse 1st (x2), unlawful imprisonment 1st | Sexual abuse 1st (x2) |
| 342943 | Wint | Mark | 11/17/25 | Hopkins | 25-CR-56 | 05/11/34 | 03/11/27 | Sexual abuse 1st victim under 12 (x2) | Sexual abuse 1st victim under 12 (x2) |
| 343391 | Wiseman | Paul | 12/18/25 | Davies | 24-CR-0287 | 08/12/26 | 05/12/25 | Sexual abuse 1st | Sexual abuse 1st |
| 187079 | Woods | Jeremy | 04/01/25 | McCracken | 24-CR-00037 | 04/27/31 | 11/01/26 | Possession of handgun by a convicted felon, wanton endangerment 1st (x2), identity theft, fleeing or evading police 1st | Wanton endangerment 1st (class C) |
| 342500 | Woodson | Bilal | 10/17/25 | Jefferson | 24-CR-1324-003 | 07/30/28 | 04/30/25 | Robbery 2nd | Robbery 2nd |
| 343434 | Ybarra | Melissa | 11/12/25 | Jefferson | 22-CR-1550 | 12/01/29 | 09/01/28 | Assault 2nd, wanton endangerment 1st, manslaughter 2nd | Manslaughter 2nd |
| 339896 | Yoder | Vernon | 05/08/25 | Crittenden | 23-CR-00067 | 03/07/26 | 07/07/25 | Sexual abuse 1st | Sexual abuse 1st |



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Kate R. Morgan, Clerk

Kentucky Court of Appeals

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EXHIBIT C

**Opinion and Order Denying Stay Pending Appeal,
Toby Berry, on behalf of himself and a certified class
vs. Kentucky Department of Corrections et al.,
No. 25-CI-193 (Franklin Cir. Ct. Mar. 2, 2026)**

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Neither the Attorney General nor the DOC and Commissioner Crews in their Response make an adequate showing of irreparable injury to persuade this Court to grant the requested stay.

In support of its motion, the Attorney General suggests that non-enforcement of HB 5 is an irreparable harm. Resp. at 2. The Court rejects the Attorney General’s characterization that its ruling involves the non-enforcement of HB 5. In fact, the Court’s ruling provides that HB 5 will be fully enforced, but that it may not be enforced *retroactively* upon Defendants whose crimes were committed prior to the enactment of HB 5.

The Attorney General’s motion incorrectly relies on *Cameron v. Beshear*, 628 S.W.3d 61 (Ky. 2021), for the proposition that “non-enforcement of a duly-enacted statute constitutes irreparable harm to the public and the government.” *Id.* at 73, citing *Boone Creek Props., LLC v. Lexington-Fayette Urb. Cnty. Bd. of Adjustment*, 442 S.W.3d 36, 40 (Ky. 2014). However, no party has argued, and the Court has not held, that the Safer Kentucky Act may not be enforced as amended or that it is unconstitutional. The Court has only found that the DOC’s *interpretation* of HB 5, which retroactively applied the amended statute to all individuals sentenced after July 2024, regardless of crime committed date or guilty plea or conviction date, is an unconstitutional *ex post facto* violation. The Court’s ruling does not interfere with the DOC’s enforcement of the amended version of HB 5. Rather, it clarifies that the enforcement of the Bill does not extend to individuals whose offenses were committed prior to the effective date, just as it has always done under previous amendments to the statute, as recently as 2022. The construction of the statute urged by the Attorney General and DOC would require the

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Court to ignore the explicit command of the legislature that “[n]o statute shall be construed to be retroactive, unless expressly so declared.” KRS 446.080(3).

Moreover, as the Kentucky Supreme Court held when it reversed the Court of Appeals’ issuance of a stay in the proceedings in this case pending the appeal of class certification, “*Boone Creek* emphasizes that such non-enforcement creates only a *presumption* of irreparable harm[.] It is neither categorical nor automatic...” *Berry v. Cmmw. ex rel. Coleman*, No. 2025-SC-0347-I, 2025 WL 2999097 (Ky. Oct. 23, 2025) (internal citations omitted). There, the Supreme Court found it significant that “[Berry’s] argument is not that HB 5 is constitutionally infirm or otherwise invalid. Rather, his sole challenge is to whether it can be retroactively applied to defendants sentenced after its enactment date.” *Id.* at *4. Because neither the challenge nor the Court’s *Order* involve the non-enforcement of a statute, there can be no presumption of irreparable injury.

The Attorney General also argues that outside of the automatic irreparable harm of the non-enforcement of the Safer Kentucky Act, enforcement of the class-wide merits ruling will have very serious public safety repercussions, because “a large group of violent offenders will be parole-eligible much earlier than they otherwise would.” Mot. at 2. This is simply incorrect. First, there is no irreparable injury in applying the law that was in effect at the time that the individuals in the class committed their offenses. The Plaintiffs’ offenses, at the time they were committed, did not qualify them as violent offenders. But for the DOC’s classification of the Plaintiffs as violent offenders, despite that when their crimes were committed, and in some cases, when their plea agreements were negotiated, they did not qualify as violent offenders under the statute, they would not be eligible for parole “early.” Put more succinctly, the only thing that changed

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between the commission of their offenses, for which they were eligible for parole at 20% time served when they were committed, and Attorney General’s motion for a stay to prevent them from becoming parole eligible at 20% time served, was the DOC’s retroactive application of the statute to the plaintiff class. It was only the DOC’s retroactive application of the amended statute to the plaintiffs that *made them violent offenders*. As the Plaintiff notes in his Response, the Attorney General’s claim that irreparable injury would result if the Court’s Order were not stayed somewhat strains credulity when the Court’s Order merely enforces the plea agreement that was negotiated by the Plaintiff and the Commonwealth’s attorney, another agency of the Commonwealth. Resp. at 6.

“An injunction will not be granted on the ground merely of an anticipated danger or an apprehension of it, but there must be a reasonable probability that injury will be done if no injunction is granted.” *Norsworthy v. Kentucky Bd. of Med. Licensure*, 330 S.W.3d 58, 63 (Ky. 2009), quoting *Hamlin v. Durham*, 235 Ky. 842, 32 S.W.2d 413, 414 (1930). The Attorney General argues that its motivation for requesting the stay is out of concern that an individual eligible for parole under the Court’s Order may be released and commit another crime while out on parole. Mot. at 2. However, this concern is wholly speculative. The Court’s Order releases no one and does not even guarantee that those class members like Berry, who would currently be eligible for parole if not for the DOC’s erroneous interpretation of HB 5, will be actually granted parole and released. The Plaintiff cites data from the Parole Board showing that only 1 in 10 inmates are released after the initial parole board hearing. Resp. at 5. Possible harm from a hypothetical crime committed upon release is wholly speculative and is not an abrogation

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of a concrete personal right necessary for this Court to find irreparable harm. *Maupin* at 698.

The primary injury alleged by the DOC in support of a stay pending appeal boils down to the administrative inconvenience of recalculating the parole eligibility dates for the Plaintiff class. But this administrative inconvenience was created by the DOC’s own unilateral decision to recalculate the parole eligibility dates for the Plaintiff class in the first place. The DOC and Commissioner Crews argue that they will be irreparably harmed if injunctive relief is not granted, because the DOC will be forced to readjust the parole eligibility dates of the plaintiff class members, which triggers the adjustment on program waiting lists and the initiation of release preparation activities. Resp. at 1. They assert that “[t]hese processes require staff time and institutional resources and affect how inmates are prioritized for programming, housing, and release preparation relative to other inmates.” *Id.* Finally, they argue that if this Court’s judgment is later reversed, it would be difficult to reverse the operational changes made in reliance on the recalculated parole eligibility dates. *Id.* While it might inconvenience the DOC somewhat to remove individuals from the programming, housing, or release preparation programs if the Court’s Order is ultimately reversed, if it is not and the Court grants the relief requested, the Plaintiffs will continue to suffer irreparable injury throughout the course of the appeal.

The Court cannot ignore the undisputed fact that Plaintiffs clearly will suffer irreparable injury if the stay is granted. “[I]n the area of temporary injunctive relief, the clearest example of irreparable injury is where it appears that the final judgment would be rendered completely meaningless should the probable harm alleged occur prior to trial.”

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Maupin at 698. Plaintiffs point out that 236 class members have missed their 20% parole eligibility date as of the hearing on the Attorney General’s motion for stay. Resp. at 9. Non-eligibility for parole doesn’t just affect Plaintiffs’ ability to be released on parole, but also their ability to be admitted to programs to prepare for parole, such as educational programs and rehabilitation programs, which can result in earning sentencing credit. The admission into these programs make it more likely that reentry in society will be successful. The Plaintiffs, so classified, are also ineligible for community housing or minimum custody, because only inmates within 24 or 48 months of minimum expiration of sentence or parole eligibility may be housed in community housing or minimum custody. Resp. at 11. The greatest irreparable injury, however, is that Plaintiffs may well be incarcerated for longer than allowed by the law in effect at the time of the commission of their offense. Some members of the Plaintiff class were otherwise required by statute to be released under mandatory release supervision, but because their parole eligibility under DOC’s interpretation disqualifies them, they remain incarcerated. *Id.* The restraint on personal liberty outside of just punishment is a clear constitutional violation, which is an inherently irreparable injury.

In contrast, the DOC’s alleged irreparable injury amounts to administrative inconvenience, which is not the kind of irreparable injury necessary to stay the Court’s Order. “[T]he harm that would result in the absence of the injunction must be irreparable, not merely substantial...mere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay, are not enough” to support a finding of irreparable injury. *Norsworthy* at 62. Injuries in the form of time,

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money, and energy expended to prepare the Plaintiffs for potential parole is exactly what the DOC alleges it will suffer.

To grant the stay, this Court is required to evaluate if the equities weigh in the Attorney General and DOC’s favor, considering the public interest, harm to the Plaintiffs, and whether an injunction will merely preserve the status quo. *Rogers v. Lexington-Fayette Urban County Government*, 175 S.W.3d 569, 571 (Ky. 2005). The balance of the equities weighs in favor of Plaintiffs, because they are likely to suffer irreparable injury if a stay is granted, and in fact are suffering ongoing irreparable injury for every day that they are erroneously classified as violent offenders. The DOC’s alleged injuries are not irreparable, and the Attorney General’s alleged injuries are merely speculative. Interest to the public weighs in favor of denying the stay, because as noted above, parole eligibility allows the Plaintiffs to enroll in educational and rehabilitative programs that benefit both themselves and the public upon their release. Moreover, the public is benefited by a system of incarceration that is just and metes out the punishment promised at the time the commission of an offense. The public is harmed when the carceral system violates the constitutional right guaranteeing that it will not be subject to *ex post facto* laws.

The Attorney General argues that “the better course is to maintain the longstanding status quo while the appeal is pending.” Mot. at 3. However, the longstanding status quo here is the DOC’s interpretation of amendments to the violent offender statute as applying to offenses committed after the effective date of the amendment, as this Court laid out in its Order. *Opinion and Order* at 8–10. It was only the DOC’s own erroneous interpretation of the amendment, and deviation from its

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longstanding interpretation of how to apply legislative amendments prospectively, that changed the status quo and classified the Plaintiffs as violent offenders.

Finally, neither the Attorney General nor the DOC have made a strong showing of success on appeal. KRS 13A.130 prohibits administrative agencies from modifying or expanding a statute by policy. All parties agree that the statute, as amended, contains no language ordering the DOC to interpret the amendment to apply retroactively, and yet the DOC modified its sentence calculation policy to apply the amendment retroactively. KRS 446.080(3) prohibits the retroactive application of statute without an express declaration of retroactivity by the legislature (which is totally absent here). Therefore, if the Court grants the Attorney General’s motion it would violate the legislature’s directive that no statute be deemed retroactive unless it so states. Finally, as the Court found in its *Opinion and Order*, the DOC has always interpreted amendments to the violent offender statute to apply to crimes committed after the effective date of the Act, even in the absence of statutory language ordering them to do so. *Order* at 8–10. The Court of Appeals is required to presume that the General Assembly does not intend to change a longstanding interpretation of statutory language unless it uses “plain and unmistakable language” to the contrary. *See, e.g., Ballinger v. Commonwealth*, 459 S.W.3d 349, 354–55 (Ky. 2015). Given the history of DOC’s interpretation of the amendments, it is difficult to see how the DOC and Attorney General will be successful on appeal.

Because the Attorney General and the DOC have not met made a showing that they will suffer irreparable harm, that the equities weigh in favor of granting a stay, or of the potential for success on appeal, the Court hereby **DENIES** the Attorney General’s

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Motion for Relief and **ORDERS** the DOC to immediately implement the Court's orders in its February 18, 2026 *Opinion and Order*.

SO ORDERED this 2nd day of March, 2026.



PHILLIP J. SHEPHERD, JUDGE
Franklin Circuit Court, Division I

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All counsel of record.

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