



**SUPREME COURT OF KENTUCKY**  
P.O. Box 1316  
PIKEVILLE, KENTUCKY 41502-1316

**WILL T. SCOTT**  
JUSTICE

p 606-432-2030  
f 606-433-7081

April 9, 2014

RE: New Uniform Schedule of Bail Effective Statewide July 1, 2014

Dear Chiefs, Officers, and Staff:

Effective July 1, 2014, the Kentucky Supreme Court will institute a new statutorily-authorized Uniform Schedule of Bail in order to provide Kentucky's counties with differing options to reduce bail and jail costs statewide. The old one had not been amended since 1978. We have tested this new Schedule in nine pilot counties for the last three years and the results have been exceptional given the low-profile, non-violent crimes to which the Schedule applies.

The bottom line—in those pilot counties that fully implemented and aggressively pursued the Schedule—is that their average release times for offenders coming under the Schedule dropped to 3.5 hours from a statewide average of 4.6 days for normal release on bail. This at a time when daily jail costs per prisoner have run from under \$30 per prisoner per day to upwards of \$88 per prisoner per day.

Not only is the Kentucky Supreme Court statutorily charged with creating and maintaining this Schedule, but, in recent years, it has become obvious to us that the Justice System is losing full access to our local jails and state prisons due to the increasing costs of incarceration both at the state and local levels. Understandably, this is also affecting your local budgets. We do what we do best when we have access to the use, or threat, of our jails and prisons. Thus, we created and tested this new Schedule to protect our access to Kentucky's jails and prisons.

But, since the Schedule is nothing more than a system, it can be applied in an inefficient or efficient manner, depending upon the desires of those who actually operate it. You, as a law enforcement officer, are an integral part of the Schedule and *a major key* to its efficiency.

Here's why I say that. In building this system, we tried to eliminate any violent offenses as well as those that might portend violence. Thus, this Schedule will not apply to any of those offenses—or any offenses not listed (for whatever reason) in the offenses covered section, which is attached to the Schedule. Take a minute and review the list of offenses.

So, if a defendant is charged with a crime that is not covered by this Schedule, the Schedule will not (and should not) apply to that defendant, even on those crimes that would have otherwise been covered. Thus, that defendant will stay in jail until his or her bail is set by a judge in the normal pretrial process.

On other offenses, which are a little higher in risk—such as the few non-violent Class D felonies included for thefts and some drug offenses—we felt it necessary to limit the Schedule's application to first offenses only. So, if you mark on your arrest document that this is the defendant's second time (or 2x or 2nd offense) then that will be a *charge not covered* by the Schedule and this will kick that defendant out of coverage (as it should) under the Schedule, even for his or her other offenses that would have been covered.

So, for the efficiency of this new Schedule, it is critical that you, as an officer, check a defendant's record (even former unresolved charges) before turning him or her into the local jail and, in addition to your charges, mark on your arresting document if there is an outstanding warrant for something else or if this is his or her second time (or more) for some of the offenses that are limited to first offense only under the Schedule. If nothing else, just mark a charge as “2x” if this is the second time he or she has been charged. If you do this, this Schedule will work efficiently in your jurisdiction. And it will help all of us protect our access to the jails and prisons that we *all* need in order to do our jobs well.

As a reminder of why these two points are important, I call your attention to sections (3) and (9) of the new Schedule, to wit:

- (3) If a defendant has been charged with one or more offenses that are not listed in this Schedule, this Schedule shall not be used for any offense with which a defendant is charged, even if included in this Schedule.
- (9) Except for (7)(C) above, for purposes of the determination of bail under this Schedule, an officer authorized by paragraph (4)(A) to take bail [(a jailer, for example)] shall determine only from the charging document such as the indictment, warrant, or uniform citation, whether an offense charged is a first, second, or subsequent offense, and shall rely solely on that document.

From our pilot projects and internal studies, we have reason to believe that this new Schedule can produce jail savings to Kentucky's counties of approximately \$3,000,000 per year, or \$30,000,000 per decade—even at an operational efficiency level of only 26%. For those counties and metro regions that really want—and need—this new system to work even better, an efficiency level of well over 50% can be easily achieved. It just takes all of us working together as a team: you, other law enforcement agencies, the jailer, the county judge-executive or mayor, fiscal court or council, the Administrative Office of the Courts, Pretrial Services, and our judges.

As the years go by, we will all become more efficient in the implementation of this new Schedule and the local savings will increase. Hopefully, this increasing efficiency in the use of our jails and prisons will ensure our continued discretionary access to them.

If you have any questions, please don't hesitate to call me. I can be reached at (606) 432-2030. Also, if need be, you may contact your local pretrial officers or their supervisors.

Thank you,

A handwritten signature in black ink, appearing to read 'Will T. Scott', with a long, sweeping flourish extending to the right.

Will T. Scott