

**533.251 Pretrial diversion program for felony drug offender and felony offender with a history of substance abuse.**

- (1) Every pretrial diversion program shall set as a condition precedent for entry into the program that any defendant charged with a Class D felony offense under KRS Chapter 218A and any defendant charged with a Class D felony offense whose criminal, medical, or mental health record indicates a present need for or benefit from substance abuse treatment participate in and demonstrate suitable compliance with the terms of a secular or faith-based substance abuse treatment or recovery program if space is available in a treatment or recovery program suitable for that defendant. The substance abuse treatment or recovery program shall be appropriate to the defendant's needs, and may include commitment to an intensive outpatient program, a residential substance abuse treatment or recovery facility, or the intensive secured drug abuse treatment program developed under KRS 196.285. Consideration may be given, in whole or in part, to a defendant's participation in drug monitoring or a substance abuse treatment or recovery plan ordered under KRS 431.518 as evidence of suitable compliance under this section.
- (2) The court may waive compliance with subsection (1) of this section if the defendant can show that exigent circumstances exist sufficient to justify diversion program participation without a prior demonstration of treatment compliance.
- (3) The court may continue in effect any nonfinancial conditions of pretrial release imposed under KRS 431.520 or 431.525 and may hold the case in abeyance during the period of time the defendant is attempting treatment or recovery prior to diversion under subsection (1) of this section.
- (4) The court may allow a person charged with a Class C felony to participate in a secular or faith-based substance abuse treatment or recovery program under subsection (1) of this section or obtain a waiver under subsection (2) of this section. If the person is successful in the program or is waived, the person shall be eligible for entry into the pretrial diversion program under the same terms, conditions, and limitations as a Class D felon.

**Effective:** March 24, 2009

**History:** Created 2009 Ky. Acts ch. 96, sec. 4, effective March 24, 2009.