

421.500 "Victim" defined for KRS 421.500 to 421.575 -- Applicability -- Required notifications -- Duties of public officers and agencies -- Restitution -- Construction of KRS 421.500 to 421.575.

- (1) (a) As used in KRS 421.500 to 421.575, "victim" means an individual directly and proximately harmed as a result of:
 1. The commission of a crime classified as a felony; a misdemeanor involving threatened or actual physical injury, harassment, or restraint; a misdemeanor involving a child or incompetent person; or a misdemeanor involving a sexual offense or a trespass; or
 2. Conduct which, if committed by an adult, would be classified as a felony or a misdemeanor described in subparagraph 1. of this paragraph.If the victim is a minor, incapacitated, or deceased, "victim" also means one (1) or more of the victim's spouse, parents, siblings, children, or other lawful representatives which shall be designated by the court unless the person is the defendant or a person the court finds would not act in the best interests of the victim.
- (b) In a case in which the number of victims makes it impracticable to accord all victims those rights provided by KRS 421.500 to 421.575, the court may fashion a reasonable procedure that does not unduly complicate or prolong the proceeding, to give effect to this section.
- (c) If the victim is deceased and the relation is not the defendant, the following relations shall be designated as "victims" for the purpose of presenting victim impact testimony under KRS 532.055(2)(a)7.:
 1. A spouse;
 2. An adult child;
 3. A parent;
 4. A sibling; and
 5. A grandparent.
- (2) If any court believes that the health, safety, or welfare of a victim who is a minor or is legally incapacitated would not otherwise adequately be protected, the court may appoint a special advocate to represent the interest of the victim and to exercise those rights provided for by KRS 421.500 to 421.575. Communication between the victim and the special advocate shall be privileged.
- (3) Law enforcement personnel shall ensure that victims receive information on available protective, emergency, social, and medical services upon initial contact with the victim and are given information on the following as soon as possible:
 - (a) Availability of crime victim compensation where applicable;
 - (b) Community-based treatment programs;
 - (c) The criminal justice process as it involves the participation of the victim or witness;
 - (d) The arrest of the accused; and
 - (e) How to register to be notified when a person has been released from prison,

jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A.

- (4) Law enforcement officers and attorneys for the Commonwealth shall provide information to victims and witnesses on how they may be protected from intimidation, harassment, and retaliation as defined in KRS 524.040 or 524.055.
- (5) Attorneys for the Commonwealth shall make a reasonable effort to insure that:
 - (a) All victims and witnesses who are required to attend criminal justice proceedings are notified promptly of any scheduling changes that affect their appearances;
 - (b) If victims so desire and if they provide the attorney for the Commonwealth with a current address and telephone number, they shall receive prompt notification, if possible, of judicial proceedings relating to their case, including but not limited to the defendant's release on bond and any special conditions of release; of the charges against the defendant, the defendant's pleading to the charges, and the date set for the trial; of notification of changes in the custody of the defendant and changes in trial dates; of the verdict, the victim's right to make an impact statement for consideration by the court at the time of sentencing of the defendant, the date of sentencing, the victim's right to receive notice of any parole board hearing held for the defendant, and that the office of Attorney General will notify the victim if an appeal of the conviction is pursued by the defendant; and of a scheduled hearing for shock probation or for bail pending appeal and any orders resulting from that hearing;
 - (c) The victim knows how to register to be notified when a person has been released from a prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A;
 - (d) The victim receives information on available:
 1. Protective, emergency, social, and medical services;
 2. Crime victim compensation, where applicable;
 3. Restitution, where applicable;
 4. Assistance from a victim advocate; and
 5. Community-based treatment programs; and
 - (e) The victim of crime may, pursuant to KRS 15.247, receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts.
- (6) The victim shall be consulted by the attorney for the Commonwealth on the disposition of the case, including dismissal, release of the defendant pending judicial proceedings, any conditions of release, a negotiated plea, and entry into a pretrial diversion program.

- (7) In prosecution for offenses listed in this section for the purpose of defining "victim," law enforcement agencies and attorneys for the Commonwealth shall promptly return a victim's property held for evidentiary purposes unless there is a compelling reason for retaining it. Photographs of such property shall be received by the court as competent evidence in accordance with the provisions of KRS 422.350.
- (8) A victim or witness who so requests shall be assisted by law enforcement agencies and attorneys for the Commonwealth in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work.
- (9) The Attorney General, where possible, shall provide technical assistance to law enforcement agencies and attorneys for the Commonwealth if such assistance is requested for establishing a victim assistance program.
- (10) If a defendant seeks appellate review of a conviction and the Commonwealth is represented by the Attorney General, the Attorney General shall make a reasonable effort to notify victims promptly of the appeal, the status of the case, and the decision of the appellate court.
- (11) Full restitution to a named victim, if there is a named victim, shall be ordered by the court to be paid by the convicted or adjudicated party in a manner consistent, insofar as possible, with this section and KRS 439.563, 532.032, 532.033, 533.020, and 533.030 in addition to any other penalty.
- (12) Nothing in KRS 421.500 to 421.575 shall be construed as altering the presumption of innocence in the criminal justice system, or to be a waiver of sovereign immunity or any other immunity or privilege maintained by the Commonwealth; its cabinets, departments, bureaus, political subdivisions, and agencies; and its officers, agents, and employees.

Effective: November 3, 2020

History: Repealed, reenacted, and amended 2020 Ky. Acts ch. 101, sec. 2, effective November 3, 2020. -- Amended 2013 Ky. Acts ch. 25, sec. 18, effective June 25, 2013. -- Amended 2008 Ky. Acts ch. 60, sec. 1, effective July 15, 2008. -- Amended 2000 Ky. Acts ch. 401, sec. 12, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 606, sec. 40, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 375, sec. 3, effective July 15, 1996. -- Created 1986 Ky. Acts ch. 212, sec. 1, effective July 15, 1986.

Legislative Research Commission Note (11/3/2020). 2020 Ky. Acts ch. 101, sec. 8, provides that the repeal, reenactment, and amendment of this statute in Section 2 of that Act "shall take effect only upon the ratification, in the general election of November 3, 2020, of a Constitutional amendment providing for the protection of crime victims' rights. If such an amendment is not ratified, this Act shall be void. The proposed amendment was ratified, effective November 3, 2020, becoming Kentucky Constitution Section 26A."

Legislative Research Commission Note (6/13/2019). 2018 Ky. Acts ch. 19, sec. 8, provides that the repeal and reenactment of this statute in that Act "shall take effect only upon the ratification, in the general election of November 6, 2018, of a Constitutional amendment providing for the protection of crime victims' rights. If such an amendment is not ratified, this Act shall be void." On June 13, 2019, the Kentucky Supreme Court ruled that the language of the proposed amendment was

not properly submitted to the voters at that election and, therefore, its ratification was void under Section 256 of the Kentucky Constitution. Consequently, the repeal and reenactment of this statute in 2019 Ky. Acts ch. 19, sec. 1, was not given effect.

Legislative Research Commission Note (7/15/2008). Subsection (4) of this statute contained a reference to KRS 524.045, which was repealed in 2002 Ky. Acts ch. 251, sec. 6, effective July 15, 2002. The reference to KRS 524.045 should have been deleted from this statute as a conforming amendment in that Act, or even when this statute was amended in 2008. The Reviser of Statutes has removed the reference during the codification of 2008 Ky. Acts ch. 60, sec. 1, under the authority of KRS 7.13136(1)(h) to correct manifest clerical or typographical errors.