

439.3401 Violent offenders -- Conditions for release -- Applicability of section to victim of domestic violence or abuse -- Time of offense -- Prohibition against award of credit.

- (1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the:
 - (a) Commission or attempted commission of:
 1. A capital offense;
 2. A Class A felony; or
 3. A felony sexual offense described in KRS Chapter 510; or
 - (b) Commission of:
 1. A felony involving the death of the victim or serious physical injury to a victim;
 2. Use of a minor in a sexual performance as described in KRS 531.310;
 3. Promoting a sexual performance by a minor as described in KRS 531.320;
 4. Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);
 5. Human trafficking under KRS 529.100 involving commercial sexual activity where the victim is a minor;
 6. Criminal abuse in the first degree as described in KRS 508.100;
 7. Burglary in the first degree accompanied by the commission or attempted commission of an assault as described in KRS 508.010, 508.020, 508.032, or 508.060;
 8. Burglary in the first degree accompanied by commission or attempted commission of kidnapping as described in KRS 509.040;
 9. Burglary in the first degree as described in KRS 511.020, if a person other than a participant in the crime was present in the building during the commission of the offense;
 10. Robbery in the first degree as described in KRS 515.020;
 11. Robbery in the second degree as described in KRS 515.030;
 12. Incest as described in KRS 530.020(2)(b) or (c);
 13. Arson in the first degree as described in KRS 513.020;
 14. Strangulation in the first degree as described in KRS 508.170;
 15. Carjacking as described in KRS 515.040;
 16. A Class C felony violation of promoting contraband in the first degree as described in KRS 520.050; or
 17. Wanton endangerment in the first degree as described in KRS 508.060 involving the discharge of a firearm.
- (2) The court shall designate in its judgment if:
 - (a) The victim suffered death or serious physical injury; and
 - (b) A person other than a participant in the crime was present in the building

during the commission of burglary in the first degree.

- (3) A violent offender who has been convicted of a capital offense and who has received a life sentence and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole, or a Class A felony and receives a life sentence, or to death and his or her sentence is commuted to a life sentence shall not be released on probation or parole until he or she has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.
- (4) A violent offender with a sentence of a term of years shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least eighty-five percent (85%) of the sentence imposed.
- (5) A violent offender shall only be awarded credit on his or her sentence authorized by KRS 197.045(1)(a)1.
- (6) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.
- (7) This section shall apply only to those persons who commit offenses after July 15, 1998.
- (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.
- (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.

Effective: July 15, 2024

History: Amended 2024 Ky. Acts ch. 174, sec. 32, effective July 15, 2024. -- Amended 2022 Ky. Acts ch. 14, sec. 1, effective July 14, 2022. -- Amended 2019 Ky. Acts ch. 136, sec. 1, effective June 27, 2019. -- Amended 2018 Ky. Acts ch. 89, sec. 15, effective July 1, 2018; and ch. 115, sec. 10, effective July 14, 2018. -- Amended 2015 Ky. Acts ch. 66, sec. 19, effective March 25, 2015. -- Amended 2013 Ky. Acts ch. 101, sec. 1, effective June 25, 2013. -- Amended 2011 Ky. Acts ch.2, sec. 99, effective June 8, 2011. -- Amended 2007 Ky. Acts ch. 19, sec. 11, effective June 26, 2007. -- Amended 2006 Ky. Acts ch. 182, sec. 27, effective July 12, 2006. -- Amended 2002 Ky. Acts ch. 120, sec. 2, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 401, sec. 3, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 606, sec. 77, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 173, sec. 4, effective July 14, 1992. -- Amended 1991 (1st Extra. Sess.) Ky. Acts ch. 3, sec. 1, effective February 15, 1991. -- Created 1986 Ky. Acts ch. 358, sec. 1, effective July 15, 1986.

Legislative Research Commission Note (7/14/2018). Pursuant to 2018 Ky. Acts ch. 115, sec. 12, that Act shall be known as the Women's Dignity in the Justice System Act. This statute was amended in Section 10 of that Act.

Legislative Research Commission Note (6/25/2013). 2013 Ky. Acts ch. 101, sec. 2, provides that Section 1 of the Act, which included an amendment to this statute, shall be known as the "Bryan Durman Act."