

1 AN ACT relating to hate crimes.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) A person is guilty of a hate crime if he or she is convicted of or pleads guilty to*
6 *the commission of, or an attempt, solicitation, or conspiracy to commit an offense*
7 *specified in this subsection intentionally because of the race, color, religion,*
8 *sexual orientation, or national origin of another individual or group of*
9 *individuals or because of a person's actual or perceived employment as a state,*
10 *city, county, or federal peace officer, member of an organized fire department, or*
11 *emergency medical services personnel:*

12 *(a) KRS 507.020, 507.030, 507.040, or 507.050;*

13 *(b) KRS 508.010, 508.020, 508.025, or 508.030;*

14 *(c) KRS 508.050 or 508.060;*

15 *(d) KRS 508.100 or 508.110;*

16 *(e) KRS 509.020;*

17 *(f) KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.100, or*
18 *510.110;*

19 *(g) KRS 512.020, 512.050, or 512.060;*

20 *(h) KRS 513.020, 513.030, or 513.040; or*

21 *(i) KRS 525.020, 525.050, 525.060, 525.070, or 525.080.*

22 *(2) A hate crime is a Class B felony, unless death or serious physical injury results,*
23 *in which case it is a Class A felony.*

24 *(3) The finding by the sentencing judge that a hate crime was a primary factor in the*
25 *commission of the crime by the defendant may be utilized by the Parole Board in*
26 *delaying or denying parole to a defendant.*

27 *(4) As used in this section:*

1 (a) "Emergency medical services personnel" has the same meaning as in KRS
2 311A.010; and

3 (b) "Member of an organized fire department, or emergency medical services
4 personnel" includes volunteers, if the violation occurs while the volunteer is
5 performing duties with an organized fire department or as emergency
6 medical services personnel.

7 (5) The provisions of this section are intended to be a separate offense, and shall be
8 punished in addition to violations of other statutes occurring during the same
9 course of conduct.

10 ➔Section 2. KRS 439.3401 is amended to read as follows:

11 (1) As used in this section, "violent offender" means any person who has been
12 convicted of or pled guilty to the commission of:

13 (a) A capital offense;

14 (b) A Class A felony;

15 (c) A Class B felony involving the death of the victim or serious physical injury
16 to a victim;

17 (d) An offense described in KRS 507.040 or 507.050 where the offense involves
18 the killing of a peace officer or firefighter while the officer or firefighter was
19 acting in the line of duty;

20 (e) A Class B felony involving criminal attempt to commit murder under KRS
21 506.010 if the victim of the offense is a clearly identifiable peace officer or
22 firefighter acting in the line of duty, regardless of whether an injury results;

23 (f) The commission or attempted commission of a felony sexual offense
24 described in KRS Chapter 510;

25 (g) Use of a minor in a sexual performance as described in KRS 531.310;

26 (h) Promoting a sexual performance by a minor as described in KRS 531.320;

27 (i) Unlawful transaction with a minor in the first degree as described in KRS

1 530.064(1)(a);

2 (j) Human trafficking under KRS 529.100 involving commercial sexual activity
3 where the victim is a minor;

4 (k) Criminal abuse in the first degree as described in KRS 508.100;

5 (l) Burglary in the first degree accompanied by the commission or attempted
6 commission of an assault described in KRS 508.010, 508.020, 508.032, or
7 508.060;

8 (m) Burglary in the first degree accompanied by commission or attempted
9 commission of kidnapping as prohibited by KRS 509.040;~~or~~

10 (n) Robbery in the first degree; or

11 (o) A hate crime as described in Section 1 of this Act.

12 The court shall designate in its judgment if the victim suffered death or serious
13 physical injury.

14 (2) A violent offender who has been convicted of a capital offense and who has
15 received a life sentence (and has not been sentenced to twenty-five (25) years
16 without parole or imprisonment for life without benefit of probation or parole), or a
17 Class A felony and receives a life sentence, or to death and his or her sentence is
18 commuted to a life sentence shall not be released on probation or parole until he or
19 she has served at least twenty (20) years in the penitentiary. Violent offenders may
20 have a greater minimum parole eligibility date than other offenders who receive
21 longer sentences, including a sentence of life imprisonment.

22 (3) (a) A violent offender who has been convicted of a capital offense,~~or~~ Class A
23 felony with a sentence of a term of years,~~or~~ Class B felony, or hate crime
24 shall not be released on probation or parole until he or she has served at least
25 eighty-five percent (85%) of the sentence imposed.

26 (b) A violent offender who has been convicted of a violation of KRS 507.040
27 where the victim of the offense was clearly identifiable as a peace officer or a

1 firefighter and the victim was acting in the line of duty shall not be released on
2 probation or parole until he or she has served at least eighty-five percent
3 (85%) of the sentence imposed.

4 (c) A violent offender who has been convicted of a violation of KRS 507.040 or
5 507.050 where the victim of the offense was a peace officer or a firefighter
6 and the victim was acting in the line of duty shall not be released on probation
7 or parole until he or she has served at least fifty percent (50%) of the sentence
8 imposed.

9 (d) Any offender who has been convicted of a homicide or fetal homicide offense
10 under KRS Chapter 507 or 507A in which the victim of the offense died as the
11 result of an overdose of a Schedule I controlled substance and who is not
12 otherwise subject to paragraph (a), (b), or (c) of this subsection shall not be
13 released on probation, shock probation, parole, conditional discharge, or other
14 form of early release until he or she has served at least fifty percent (50%) of
15 the sentence imposed.

16 (4) A violent offender shall not be awarded any credit on his sentence authorized by
17 KRS 197.045(1)(b)1. In no event shall a violent offender be given credit on his or
18 her sentence if the credit reduces the term of imprisonment to less than eighty-five
19 percent (85%) of the sentence.

20 (5) This section shall not apply to a person who has been determined by a court to have
21 been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard
22 to the offenses involving the death of the victim or serious physical injury to the
23 victim. The provisions of this subsection shall not extend to rape in the first degree
24 or sodomy in the first degree by the defendant.

25 (6) This section shall apply only to those persons who commit offenses after July 15,
26 1998.

27 (7) For offenses committed prior to July 15, 1998, the version of this statute in effect

1 immediately prior to that date shall continue to apply.

2 (8) The provisions of subsection (1) of this section extending the definition of "violent
3 offender" to persons convicted of or pleading guilty to robbery in the first degree
4 shall apply only to persons whose crime was committed after July 15, 2002.

5 ➔Section 3. KRS 49.320 is amended to read as follows:

6 A person who suffers personal injury as a result of conduct in violation of **Section 1 of**
7 **this Act**~~[KRS 532.031]~~ is a victim of criminally injurious conduct as defined in KRS
8 49.280 and is eligible for awards pursuant to KRS 49.270 to 49.490.

9 ➔Section 4. The following KRS section is repealed:

10 532.031 Hate crimes -- Finding -- Effect -- Definitions.

11 ➔Section 5. The restrictions of KRS 6.945(1) shall not apply to Section 1 of this
12 Act.