

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) As used in this section:*

6 *(a) "Gender identity" means actual or perceived gender-related characteristics;*

7 *and*

8 *(b) "Sexual offense" means a violation of KRS 510.040, 510.050, 510.060,*
9 *510.070, 510.080, 510.090, 510.110, 510.120, or 510.130.*

10 *(2) A person is guilty of a hate crime if he or she intentionally causes physical injury*
11 *to another person or, through the use of a deadly weapon or a dangerous*
12 *instrument, attempts to cause physical injury to another person because of that*
13 *person's actual or perceived race, color, religion, national origin, gender, sexual*
14 *orientation, gender identity, or disability.*

15 *(3) A hate crime is a Class B felony, unless:*

16 *(a) Death results or the offense includes an attempt to commit murder;*

17 *(b) The offense includes kidnapping or the attempt to commit kidnapping; or*

18 *(c) The offense includes a sexual offense or the attempt to commit a sexual*
19 *offense;*

20 *in which case it is a Class A felony.*

21 ➔Section 2. KRS 532.031 is amended to read as follows:

22 (1) A person may be found by the sentencing judge to have committed an offense
23 specified below as a result of a hate crime if the person intentionally because of
24 race, color, religion, sexual orientation, or national origin of another individual or
25 group of individuals or because of a person's actual or perceived employment as a
26 state, city, county, or federal peace officer, member of an organized fire department,
27 or emergency medical services personnel, violates a provision of any one (1) of the

1 following:

- 2 (a) KRS 508.010, 508.020, 508.025, or 508.030;
- 3 (b) KRS 508.050 or 508.060;
- 4 (c) KRS 508.100 or 508.110;
- 5 (d) KRS 509.020;
- 6 (e) KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.100, or
- 7 510.110;
- 8 (f) KRS 512.020, 512.050, or 512.060;
- 9 (g) KRS 513.020, 513.030, or 513.040; or
- 10 (h) KRS 525.020, 525.050, 525.060, 525.070, ~~or~~ 525.080, or Section 1 of this
- 11 Act.

12 (2) At sentencing, the sentencing judge shall determine if, by a preponderance of the

13 evidence presented at the trial, a hate crime was a primary factor in the commission

14 of the crime by the defendant. If so, the judge shall make a written finding of fact

15 and enter that in the court record and in the judgment rendered against the

16 defendant.

17 (3) The finding that a hate crime was a primary factor in the commission of the crime

18 by the defendant may be utilized by the sentencing judge as the sole factor for

19 denial of probation, shock probation, conditional discharge, or other form of

20 nonimposition of a sentence of incarceration.

21 (4) The finding by the sentencing judge that a hate crime was a primary factor in the

22 commission of the crime by the defendant may be utilized by the Parole Board in

23 delaying or denying parole to a defendant.

24 (5) As used in this section:

25 (a) "Emergency medical services personnel" has the same meaning as in KRS

26 311A.010; and

27 (b) "Member of an organized fire department, or emergency medical services

1 personnel" includes volunteers, if the violation occurs while the volunteer is
2 performing duties with an organized fire department or as emergency medical
3 services personnel.

4 ➔Section 3. The restrictions of KRS 6.945(1) shall not apply to Section 1 of this
5 Act.