

1 AN ACT relating to victims of sex offenses.

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

3 ➔Section 1. KRS 439.340 is amended to read as follows:

4 (1) The board may release on parole persons confined in any adult state penal or
5 correctional institution of Kentucky or sentenced felons incarcerated in county jails
6 eligible for parole. All paroles shall issue upon order of the board duly adopted. As
7 soon as practicable after his or her admission to an adult state penal or correctional
8 institution or county jail if he or she is a sentenced felon, and at such intervals
9 thereafter as it may determine, the Department of Corrections shall obtain all
10 pertinent information regarding each prisoner, except those not eligible for parole.
11 The information shall include the results of his or her most recent risk and needs
12 assessment, his or her criminal record, his or her conduct, employment, and the
13 reports of physical and mental examinations that have been made. The Department
14 of Corrections shall furnish the circumstances of his or her offense, the results of his
15 or her most recent risk and needs assessment, and his or her previous social history
16 to the board. The Department of Corrections shall prepare a report on any
17 information it obtains. It shall be the duty of the Department of Corrections to
18 supplement this report with any material the board may request and submit the
19 report to the board.

20 (2) Before granting the parole of any prisoner, the board shall consider the pertinent
21 information regarding the prisoner, including the results of his or her most recent
22 risk and needs assessment, and shall have him or her appear before it for interview
23 and hearing. The board in its discretion may hold interviews and hearings for
24 prisoners convicted of Class C felonies not included within the definition of
25 "violent offender" in KRS 439.3401 and Class D felonies ***not included within the***
26 ***definition of "sex crime" in KRS 17.500.*** The board in its discretion may request
27 the parole board of another state confining prisoners pursuant to KRS 196.610 to

1 interview eligible prisoners and make a parole recommendation to the board. A
2 parole shall be ordered only for the best interest of society and not as an award of
3 clemency, and it shall not be considered a reduction of sentence or pardon. A
4 prisoner shall be placed on parole only when arrangements have been made for his
5 or her proper employment or for his or her maintenance and care, and when the
6 board believes he or she is able and willing to fulfill the obligations of a law abiding
7 citizen. Notwithstanding any statute to the contrary, including KRS 440.330, when a
8 prisoner is otherwise eligible for parole and the board has recommended parole for
9 that prisoner for the reasons set forth in this subsection, the board may grant parole
10 to any prisoner wanted as a fugitive by any other jurisdiction, and the prisoner shall
11 be released to the detainer from that jurisdiction. Such parole shall not constitute a
12 relinquishment of jurisdiction over the prisoner, and the board in all cases expressly
13 reserves the right to return the prisoner to confinement in a correctional institution
14 of the Commonwealth if the prisoner violates the terms of his or her parole.

15 (3) (a) A nonviolent offender convicted of a Class D felony with an aggregate
16 sentence of one (1) to five (5) years who is confined to a state penal institution
17 or county jail shall have his or her case reviewed by the Parole Board after
18 serving fifteen percent (15%) or two (2) months of the original sentence,
19 whichever is longer.

20 (b) Except as provided in this section, the board shall adopt administrative
21 regulations with respect to the eligibility of prisoners for parole, the conduct
22 of parole and parole revocation hearings and all other matters that come
23 before it, or conditions to be imposed upon parolees. Regulations governing
24 the eligibility of prisoners for parole shall be in accordance with
25 professionally accepted ideas of correction and reform and may utilize in part
26 objective, performance-based criteria and risk and needs assessment
27 information; however, nothing herein contained shall preclude the board from

1 utilizing its present regulations in conjunction with other factors involved that
2 would relate to the inmate's needs and the safety of the public.

3 (4) The board shall insure that all sentenced felons who have longer than ninety (90)
4 days to serve in state penal institutions, halfway houses, reentry centers, and county
5 jails are considered for parole not less than sixty (60) days prior to their parole
6 eligibility date, and the Department of Corrections shall provide the necessary
7 assistance and information to the board in order for it to conduct timely parole
8 reviews.

9 (5) In addition to or in conjunction with each hearing conducted under subsection (2) of
10 this section for any prisoner convicted of a Class A, B, or C felony or a Class D
11 felony included within the definition of "sex crime" in KRS 17.500 and prior to
12 the granting of a parole to any such prisoner, the parole board shall conduct a
13 hearing of which the following persons shall receive not less than forty-five (45) nor
14 more than ninety (90) days' notice: the Commonwealth's attorney who shall notify
15 the sheriff of every county and the chief of police of every city and county in which
16 the prisoner committed any Class A, B, or C felony or a Class D felony included
17 within the definition of "sex crime" in KRS 17.500 for which he or she is
18 imprisoned, and all identified victims of the crimes or the next of kin of any victim
19 who is deceased. Notice to the Commonwealth's attorney shall be by mail, fax, or
20 electronic means at the discretion of the board, and shall be in a manner that ensures
21 receipt at the Commonwealth attorney's business office. Notices received by chiefs
22 of police and sheriffs shall be posted in a conspicuous location where police
23 employed by the department may see it. Notices shall be posted in a manner and at a
24 time that will allow officers to make comment thereon to the Parole Board. Notice
25 to victims or their next of kin shall be made, for prisoners incarcerated prior to July
26 15, 1986, by mail, fax, or electronic means at the discretion of the board, and shall
27 be in a manner that ensures receipt by the Commonwealth's attorney, who shall

1 forward the notice promptly to the victims or their next of kin at their last known
2 address. For prisoners incarcerated on or after July 15, 1986, notice to the victims or
3 their next of kin shall be by mail from the Parole Board to their last known address
4 as provided by the Commonwealth's attorney to the Parole Board at the time of
5 incarceration of the prisoner. For prisoners incarcerated prior to the effective date
6 of this Act for a Class D felony included within the definition of "sex crime" in
7 KRS 17.500, notice to the victims or their next of kin shall be in a manner that
8 ensures receipt by the Commonwealth's attorney, who shall forward the notice
9 promptly to the victims or their next of kin at their last known address. For
10 prisoners incarcerated on or after the effective date of this Act for a Class D
11 felony included within the definition of "sex crime" in KRS 17.500, notice to the
12 victims or their next of kin shall be by mail from the Parole Board to their last
13 known address as provided by the Commonwealth's attorney to the Parole Board
14 at the time of incarceration of the prisoner. Notice to the victim or the next of kin
15 of subsequent considerations for parole after the initial consideration shall not be
16 sent if the victim or the next of kin gives notice to the board that he or she no longer
17 wants to receive such notices. The notice shall include the time, date, and place of
18 the hearing provided for in this subsection, and the name and address of a person to
19 write if the recipient of the notice desires to attend the hearing or to submit written
20 comments.

21 (6) Persons receiving notice as provided for in subsection (5) of this section may
22 submit comments, in person or in writing, to the board upon all issues relating to the
23 parole of the prisoner. The board shall read and consider all comments prior to
24 making its parole decision, if they are received by the board not less than seven (7)
25 days before the date for the hearing. The board shall retain all comments in the
26 prisoner's permanent Parole Board file, and shall consider them in conjunction with
27 any subsequent parole decisions affecting the prisoner. In addition to officers listed

1 in subsection (5) of this section, the crime victims or the next of kin of any victim
2 who is deceased or who is disabled and cannot attend the hearing or the parent or
3 legal guardian of any victim who is a minor may attend the hearing provided for in
4 subsection (5) of this section and present oral and written comments upon all issues
5 relating to the parole of the prisoner, if they have advised the board, in writing
6 received by the board not less than seven (7) days prior to the date set for the
7 hearing, of their intention to attend the hearing. The board shall receive and
8 consider all comments, shall make a record of them which it shall retain in the
9 prisoner's permanent Parole Board file, and shall consider them in conjunction with
10 any subsequent parole decision affecting the prisoner. Persons appearing before the
11 Parole Board pursuant to this subsection may elect to make their presentations
12 outside of the presence of the prisoner.

13 (7) Victims of Class D felonies *not included within the definition of "sex crime" in*
14 *KRS 17.500* may submit comments in person or in writing to the board upon all
15 issues relating to the parole of a prisoner.

16 (8) Any hearing provided for in subsections (5), (6), and (7) of this section shall be
17 open to the public unless the persons having a right to appear before the board as
18 specified in those subsections request closure of hearing for reasons of personal
19 safety, in which event the hearing shall be closed. The time, date, and location of
20 closed hearings shall not be disclosed to the public.

21 (9) Except as specifically set forth in this section, nothing in this section shall be
22 deemed to expand or abridge any existing rights of persons to contact and
23 communicate with the Parole Board or any of its members, agents, or employees.

24 (10) The unintentional failure by the Parole Board, sheriff, chief of police, or any of its
25 members, agents, or employees or by a Commonwealth's attorney or any of his or
26 her agents or employees to comply with any of the provisions of subsections (5),
27 (6), and (8) of this section shall not affect the validity of any parole decision or give

1 rise to any right or cause of action by the crime victim, the prisoner, or any other
2 person.

3 (11) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be
4 granted parole unless he or she has successfully completed the Sexual Offender
5 Treatment Program.

6 (12) Any prisoner who is granted parole after completion of the Sexual Offender
7 Treatment Program shall be required, as a condition of his or her parole, to
8 participate in regular treatment in a mental health program approved or operated by
9 the Department of Corrections.

10 (13) When the board grants parole contingent upon completion of a program, the
11 commissioner, or his or her designee, shall determine the most appropriate
12 placement in a program operated by the department or a residential or nonresidential
13 program within the community approved by the department. If the department
14 releases a parolee to a nonresidential program, the department shall release the
15 parolee only if he or she will have appropriate community housing pursuant to KRS
16 439.3408.

17 (14) If the parole board does not grant parole to a prisoner, the maximum deferment for a
18 prisoner convicted of a non-violent, non-sexual Class C or Class D felony shall be
19 twenty-four (24) months. For all other prisoners who are eligible for parole:

20 (a) No parole deferment greater than five (5) years shall be ordered unless
21 approved by a majority vote of the full board; and

22 (b) No deferment shall exceed ten (10) years, except for life sentences.

23 (15) When an order for parole is issued, it shall recite the conditions thereof.

24 ➔Section 2. KRS 510.037 is amended to read as follows:

25 The entering of a judgment of conviction for any degree of rape, sodomy, or sexual abuse
26 under this chapter, *or for a criminal attempt, conspiracy, facilitation, or solicitation to*
27 *commit any degree of rape, sodomy, or sexual abuse,* shall operate as an application for

1 an interpersonal protective order issued under KRS Chapter 456, unless the victim
2 requests otherwise. Notwithstanding the provisions of KRS Chapter 456:

- 3 (1) An interpersonal protective order requested under this subsection may be issued by
4 the court that entered the judgment of conviction;
- 5 (2) The judgment of conviction shall constitute sufficient cause for the entry of the
6 order without the necessity of further proof being taken; and
- 7 (3) The order may be effective for up to ten (10) years, with further renewals in
8 increments of up to ten (10) years.

9 ➔Section 3. KRS 456.010 is amended to read as follows:

10 As used in this chapter:

- 11 (1) "Dating relationship" means a relationship between individuals who have or have
12 had a relationship of a romantic or intimate nature. It does not include a casual
13 acquaintanceship or ordinary fraternization in a business or social context. The
14 following factors may be considered in addition to any other relevant factors in
15 determining whether the relationship is or was of a romantic or intimate nature:
 - 16 (a) Declarations of romantic interest;
 - 17 (b) The relationship was characterized by the expectation of affection;
 - 18 (c) Attendance at social outings together as a couple;
 - 19 (d) The frequency and type of interaction between the persons, including whether
20 the persons have been involved together over time and on a continuous basis
21 during the course of the relationship;
 - 22 (e) The length and recency of the relationship; and
 - 23 (f) Other indications of a substantial connection that would lead a reasonable
24 person to understand that a dating relationship existed;
- 25 (2) "Dating violence and abuse" means physical injury, serious physical injury, stalking,
26 sexual assault, strangulation, or the infliction of fear of imminent physical injury,
27 serious physical injury, sexual abuse, strangulation, or assault occurring between

- 1 persons who are or have been in a dating relationship;
- 2 (3) "Foreign protective order" means any judgment, decree, or order of protection
3 which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 which was
4 not issued on the basis of domestic violence and abuse;
- 5 (4) "Global positioning monitoring system" means a system that electronically
6 determines a person's location through a device worn by the person which does not
7 invade his or her bodily integrity and which transmits the person's latitude and
8 longitude data to a monitoring entity;
- 9 (5) "Order of protection" means any interpersonal protective order, including those
10 issued on a temporary basis, and includes a foreign protective order;
- 11 (6) "Sexual assault" refers to conduct prohibited as any degree of rape, sodomy, or
12 sexual abuse under KRS Chapter 510 or a criminal attempt, conspiracy,
13 facilitation, or solicitation to commit any degree of rape, sodomy, or sexual
14 abuse, or incest under KRS 530.020;
- 15 (7) "Stalking" refers to conduct prohibited as stalking under KRS 508.140 or 508.150,
16 or a criminal attempt, conspiracy, facilitation, or solicitation to commit the crime
17 of stalking;
- 18 (8) "Strangulation" refers to conduct prohibited by KRS 508.170 and 508.175, or a
19 criminal attempt, conspiracy, facilitation, or solicitation to commit the crime of
20 strangulation; and
- 21 (9) "Substantial violation" means criminal conduct which involves actual or threatened
22 harm to the person, family, or property of an individual protected by an order of
23 protection.
- 24 ➔Section 4. KRS 403.720 is amended to read as follows:
- 25 As used in KRS 403.715 to 403.785:
- 26 (1) "Domestic violence and abuse" means physical injury, serious physical injury,
27 stalking, sexual abuse, strangulation, assault, or the infliction of fear of imminent

- 1 physical injury, serious physical injury, sexual abuse, strangulation, or assault
2 between family members or members of an unmarried couple;
- 3 (2) "Family member" means a spouse, including a former spouse, a grandparent, a
4 grandchild, a parent, a child, a stepchild, or any other person living in the same
5 household as a child if the child is the alleged victim;
- 6 (3) "Foreign protective order" means any judgment, decree, or order of protection
7 which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 that was
8 issued on the basis of domestic violence and abuse;
- 9 (4) "Global positioning monitoring system" means a system that electronically
10 determines a person's location through a device worn by the person which does not
11 invade his or her bodily integrity and which transmits the person's latitude and
12 longitude data to a monitoring entity;
- 13 (5) "Member of an unmarried couple" means each member of an unmarried couple
14 which allegedly has a child in common, any children of that couple, or a member of
15 an unmarried couple who are living together or have formerly lived together;
- 16 (6) "Order of protection" means an emergency protective order or a domestic violence
17 order and includes a foreign protective order;
- 18 (7) "Strangulation" refers to conduct prohibited by KRS 508.170 and 508.175, or a
19 criminal attempt, conspiracy, facilitation, or solicitation to commit the crime of
20 strangulation; and
- 21 (8) "Substantial violation" means criminal conduct which involves actual or threatened
22 harm to the person, family, or property of an individual protected by an order of
23 protection.