

1 AN ACT relating to incest.

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

3 ➔Section 1. KRS 439.3401 is amended to read as follows:

- 4 (1) As used in this section, "violent offender" means any person who has been  
5 convicted of or pled guilty to the commission of:
- 6 (a) A capital offense;
  - 7 (b) A Class A felony;
  - 8 (c) A Class B felony involving the death of the victim or serious physical injury  
9 to a victim;
  - 10 (d) An offense described in KRS 507.040 or 507.050 where the offense involves  
11 the killing of a peace officer, firefighter, or emergency medical services  
12 personnel while the peace officer, firefighter, or emergency medical services  
13 personnel was acting in the line of duty;
  - 14 (e) A Class B felony involving criminal attempt to commit murder under KRS  
15 506.010 if the victim of the offense is a clearly identifiable peace officer,  
16 firefighter, or emergency medical services personnel acting in the line of duty,  
17 regardless of whether an injury results;
  - 18 (f) The commission or attempted commission of a felony sexual offense  
19 described in KRS Chapter 510;
  - 20 (g) Use of a minor in a sexual performance as described in KRS 531.310;
  - 21 (h) Promoting a sexual performance by a minor as described in KRS 531.320;
  - 22 (i) Unlawful transaction with a minor in the first degree as described in KRS  
23 530.064(1)(a);
  - 24 (j) Human trafficking under KRS 529.100 involving commercial sexual activity  
25 where the victim is a minor;
  - 26 (k) Criminal abuse in the first degree as described in KRS 508.100;
  - 27 (l) Burglary in the first degree accompanied by the commission or attempted

1 commission of an assault described in KRS 508.010, 508.020, 508.032, or  
2 508.060;

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

5 (n) Robbery in the first degree; or

6 (o) Incest as described in KRS 530.020(2)(b) or (c).

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

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

17 (3) (a) A violent offender who has been convicted of a capital offense or Class A  
18 felony with a sentence of a term of years or Class B felony shall not be  
19 released on probation or parole until he has served at least eighty-five percent  
20 (85%) of the sentence imposed.

21 (b) A violent offender who has been convicted of a violation of KRS 507.040  
22 where the victim of the offense was clearly identifiable as a peace officer, a  
23 firefighter, or emergency medical services personnel, and the victim was  
24 acting in the line of duty shall not be released on probation or parole until he  
25 or she has served at least eighty-five percent (85%) of the sentence imposed.

26 (c) A violent offender who has been convicted of a violation of KRS 507.040 or  
27 507.050 where the victim of the offense was a peace officer, a firefighter, or

1 emergency medical services personnel, and the victim was acting in the line of  
2 duty shall not be released on probation or parole until he or she has served at  
3 least fifty percent (50%) of the sentence imposed.

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

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

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

20 (6) This section shall apply only to those persons who commit offenses after July 15,  
21 1998.

22 (7) For offenses committed prior to July 15, 1998, the version of this statute in effect  
23 immediately prior to that date shall continue to apply.

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