

1 AN ACT relating to violent offenders.

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 *or attempted 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 (e)~~(g)~~ Use of a minor in a sexual performance as described in KRS 531.310;
 - 21 (f)~~(h)~~ Promoting a sexual performance by a minor as described in KRS
22 531.320;
 - 23 (g)~~(i)~~ Unlawful transaction with a minor in the first degree as described in
24 KRS 530.064(1)(a);
 - 25 (h)~~(j)~~ Human trafficking under KRS 529.100 involving commercial sexual
26 activity where the victim is a minor;
 - 27 (i)~~(k)~~ Criminal abuse in the first degree as described in KRS 508.100;

1 ~~(j)(1)~~ Burglary in the first degree accompanied by the commission or
 2 attempted commission of an assault as described in KRS 508.010, 508.020,
 3 508.032, or 508.060;

4 ~~(k)(m)~~ Burglary in the first degree accompanied by commission or attempted
 5 commission of kidnapping as described in~~[prohibited by]~~ KRS 509.040;

6 (l) Burglary in the first degree as described in KRS 511.020, if a person other
 7 than a participant in the crime was present in the building during the
 8 commission of the offense;

9 (m) Burglary in the second degree as described in KRS 511.030, if a person
 10 other than a participant in the crime was present in the dwelling during the
 11 commission of the offense;

12 (n) Robbery in the first degree as described in KRS 515.020;~~[or]~~

13 (o) Robbery in the second degree as described in KRS 515.030;

14 (p) Incest as described in KRS 530.020(2)(b) or (c);

15 (q) Arson in the first degree as described in KRS 513.020;

16 (r) Arson in the second degree as described in KRS 513.030; or

17 (s) Strangulation in the first degree as described in KRS 508.170.

18 (2) The court shall designate in its judgment if:

19 (a) The victim suffered death or serious physical injury;

20 (b) A person other than a participant in the crime was present in the building
 21 during the commission of burglary in the first degree; and

22 (c) A person other than a participant in the crime was present in the dwelling
 23 during the commission of burglary in the second degree.

24 ~~(3)(2)~~ A violent offender who has been convicted of a capital offense and who has
 25 received a life sentence ~~[and has not been sentenced to twenty-five (25) years~~
 26 ~~without parole or imprisonment for life without benefit of probation or parole]~~, or
 27 a Class A felony and receives a life sentence, or to death and his or her sentence is

1 commuted to a life sentence shall not be released on probation or parole until he or
2 she has served at least twenty (20) years in the penitentiary. Violent offenders may
3 have a greater minimum parole eligibility date than other offenders who receive
4 longer sentences, including a sentence of life imprisonment.

5 ~~(4)~~~~(3)~~ ~~{(a)}~~ A violent offender ~~{who has been convicted of a capital offense or~~
6 ~~Class A felony }~~with a sentence of a term of years ~~{or Class B felony }~~shall not be
7 released on probation, **shock probation,** ~~{or }~~parole, **conditional discharge, or other**
8 **form of early release** until he **or she** has served at least eighty-five percent (85%)
9 of the sentence imposed.

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

15 ~~(c)~~ A violent offender who has been convicted of a violation of KRS 507.040 or
16 507.050 where the victim of the offense was a peace officer, a firefighter, or
17 emergency medical services personnel, and the victim was acting in the line
18 of duty shall not be released on probation or parole until he or she has served
19 at least fifty percent (50%) of the sentence imposed.

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

27 ~~(5)~~~~(4)~~ A violent offender shall **only**~~[not]~~ be awarded ~~{any }~~credit on his **or her**

1 sentence authorized by KRS 197.045(1)(a)1. ~~In no event shall a violent~~
2 ~~offender be given credit on his or her sentence if the credit reduces the term of~~
3 ~~imprisonment to less than eighty five percent (85%) of the sentence.]~~

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

9 ~~(7)~~⁽⁶⁾ This section shall apply only to those persons who commit offenses after July
10 15, 1998.

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

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

16 ➔Section 2. KRS 525.045 is amended to read as follows:

17 (1) A person is guilty of the separate offense of terrorism if conviction of the
18 underlying offense committed would classify the person as a violent offender under
19 KRS 439.3401(1)(a), (b), or (c) ~~or (d)~~, or the underlying offense was an offense
20 under KRS 527.200, 527.205, or 527.210 and the person had the intent to:

21 (a) Intimidate the civilian population at large, or an identifiable group of the
22 civilian population; or

23 (b) Influence, through intimidation, the conduct or activities of the government of
24 the United States, the Commonwealth, any other state, or any unit of local
25 government.

26 (2) A conviction of terrorism shall be punishable by a term of imprisonment for life
27 without benefit of probation or parole. An offense under this section is a separate

1 offense from the underlying offense and shall not merge with other offenses.

2 (3) A person convicted under this section shall not be released on probation, shock
3 probation, parole, conditional discharge, or any other form of conditional release.

4 (4) (a) All real and personal property used or intended for use in the course of,
5 derived from, or realized through an offense punishable pursuant to this
6 section shall be subject to lawful seizure and forfeiture to the Commonwealth
7 as set forth in KRS 218A.405 to 218A.460, except that any property seized
8 and forfeited to the Commonwealth under this section that was used in an act
9 of terror, as defined in KRS 411.025, shall be held for at least five (5) years
10 for the purposes of paying any damages awarded under KRS 411.025.

11 (b) Notwithstanding paragraph (a) of this subsection, any real or personal
12 property:

13 1. Taken by a lender in good faith as collateral for the extension of credit
14 and recorded as provided by law;

15 2. Of an owner who made a bona fide purchase of the property; or

16 3. Of a person with rightful possession of the property;

17 shall not be subject to forfeiture unless the lender, owner, or person had
18 knowledge of an offense under this section.

19 (5) Damages awarded pursuant to a successful claim under KRS 411.025 may be paid
20 by property lawfully seized and forfeited under this section.