

1 AN ACT relating to crimes and punishments.

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

3 ➔Section 1. KRS 17.500 is amended to read as follows:

4 As used in KRS 17.500 to 17.580:

5 (1) "Approved provider" means a mental health professional licensed or certified in  
6 Kentucky whose scope of practice includes providing mental health treatment  
7 services and who is approved by the Sex Offender Risk Assessment Advisory  
8 Board, under administrative regulations promulgated by the board, to provide  
9 comprehensive sex offender presentence evaluations or treatment to adults and  
10 youthful offenders, as defined in KRS 600.020;

11 (2) "Cabinet" means the Justice and Public Safety Cabinet;

12 (3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense  
13 against a victim who is a minor" means any of the following offenses if the  
14 victim is under the age of eighteen (18) at the time of the commission of the  
15 offense:

- 16 1. Kidnapping, as set forth in KRS 509.040, except by a parent;
- 17 2. Unlawful imprisonment, as set forth in KRS 509.020, except by a  
18 parent;
- 19 3. Sex crime;
- 20 4. Promoting a sexual performance of a minor, as set forth in KRS  
21 531.320;
- 22 5. Human trafficking involving commercial sexual activity, as set forth in  
23 KRS 529.100;
- 24 6. Promoting human trafficking involving commercial sexual activity, as  
25 set forth in KRS 529.110;
- 26 7. Promoting prostitution, as set forth in KRS 529.040, when the defendant  
27 advances or profits from the prostitution of a person under the age of

- 1                   eighteen (18);
- 2                   8. Use of a minor in a sexual performance, as set forth in KRS 531.310;
- 3                   9. Sexual abuse, as set forth in KRS 510.120 and 510.130;
- 4                   10. Unlawful transaction with a minor in the first degree, as set forth in KRS
- 5                   530.064(1)(a);
- 6                   11. Any offense involving a minor or depictions of a minor, as set forth in
- 7                   KRS Chapter 531;
- 8                   12. Any attempt to commit any of the offenses described in subparagraphs
- 9                   1. to 11. of this paragraph;
- 10                  13. Solicitation to commit any of the offenses described in subparagraphs 1.
- 11                  to 11. of this paragraph; or
- 12                  14. Any offense from another state or territory, any federal offense, or any
- 13                  offense subject to a court martial of the United States Armed Forces,
- 14                  which is similar to any of the offenses described in subparagraphs 1. to
- 15                  13. of this paragraph.
- 16                  (b) Conduct which is criminal only because of the age of the victim shall not be
- 17                  considered a criminal offense against a victim who is a minor if the
- 18                  perpetrator was under the age of eighteen (18) at the time of the commission
- 19                  of the offense;
- 20                  (4) "Law enforcement agency" means any lawfully organized investigative agency,
- 21                  sheriff's office, police unit, or police force of federal, state, county, urban-county
- 22                  government, charter county, city, consolidated local government, or a combination
- 23                  of these, responsible for the detection of crime and the enforcement of the general
- 24                  criminal federal or state laws;
- 25                  (5) "Registrant" means:
- 26                  (a) Any person eighteen (18) years of age or older at the time of the offense or
- 27                  any youthful offender, as defined in KRS 600.020, who has committed:

- 1           1.    A sex crime; or
- 2           2.    A criminal offense against a victim who is a minor; or
- 3           (b)   Any person required to register under KRS 17.510; or
- 4           (c)   Any sexually violent predator; or
- 5           (d)   Any person whose sexual offense has been diverted pursuant to KRS 533.250,
- 6           until the diversionary period is successfully completed;
- 7   (6)   "Registrant information" means the name, including any lawful name change
- 8           together with the previous name, Social Security number, age, race, sex, date of
- 9           birth, height, weight, hair and eye color, fingerprints, palm prints, DNA sample, a
- 10          photograph, aliases used, residence, motor vehicle operator's license number as well
- 11          as any other government-issued identification card numbers, if any, a brief
- 12          description of the crime or crimes committed, and other information the cabinet
- 13          determines, by administrative regulation, may be useful in the identification of
- 14          registrants;
- 15   (7)   "Residence" means any place where a person sleeps. For the purposes of this
- 16          statute, a registrant may have more than one (1) residence. A registrant is required
- 17          to register each residence address;
- 18   (8)   "Sex crime" means:
- 19          (a)   A felony offense defined in KRS Chapter 510, KRS 529.100 or 529.110
- 20                  involving commercial sexual activity, 530.020, 530.064(1)(a), 531.310,
- 21                  531.320, ~~or~~ 531.335, or 531.340;
- 22          (b)   A felony attempt to commit a felony offense specified in paragraph (a) of this
- 23                  subsection; or
- 24          (c)   A federal felony offense, a felony offense subject to a court-martial of the
- 25                  United States Armed Forces, or a felony offense from another state or a
- 26                  territory where the felony offense is similar to a felony offense specified in
- 27                  paragraph (a) of this subsection;

- 1 (9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an  
2 Alford plea to a sex crime as defined in this section, as of the date the verdict is  
3 entered by the court;
- 4 (10) "Sexually violent predator" means any person who has been subjected to  
5 involuntary civil commitment as a sexually violent predator, or a similar  
6 designation, under a state, territory, or federal statutory scheme;
- 7 (11) "The board" means the Sex Offender Risk Assessment Advisory Board created  
8 under KRS 17.554;
- 9 (12) "Victim" has the same meaning as in KRS 421.500;
- 10 (13) "DNA sample" or "deoxyribonucleic acid sample" means a blood or swab specimen  
11 from a person, as prescribed by administrative regulation, that is required to provide  
12 a DNA sample pursuant to KRS 17.170 or 17.510, that shall be submitted to the  
13 Department of Kentucky State Police forensic laboratory for law enforcement  
14 identification purposes and inclusion in law enforcement identification databases;  
15 and
- 16 (14) "Authorized personnel" means an agent of state government who is properly trained  
17 in DNA sample collection pursuant to administrative regulation.
- 18 ➔Section 2. KRS 439.3401 is amended to read as follows:
- 19 (1) As used in this section, "violent offender" means any person who has been  
20 convicted of or pled guilty to the commission of:
- 21 (a) A capital offense;
- 22 (b) A Class A felony;
- 23 (c) A Class B felony involving the death of the victim or serious physical injury  
24 to a victim;
- 25 (d) An offense described in KRS 507.040 or 507.050 where the offense involves  
26 the killing of a peace officer, firefighter, or emergency medical services  
27 personnel while the peace officer, firefighter, or emergency medical services

- 1 personnel was acting in the line of duty;
- 2 (e) A Class B felony involving criminal attempt to commit murder under KRS  
3 506.010 if the victim of the offense is a clearly identifiable peace officer,  
4 firefighter, or emergency medical services personnel acting in the line of duty,  
5 regardless of whether an injury results;
- 6 (f) The commission or attempted commission of a felony sexual offense  
7 described in KRS Chapter 510;
- 8 (g) Use of a minor in a sexual performance as described in KRS 531.310;
- 9 (h) Promoting a sexual performance by a minor as described in KRS 531.320;
- 10 (i) Unlawful transaction with a minor in the first degree as described in KRS  
11 530.064(1)(a);
- 12 (j) Human trafficking under KRS 529.100 involving commercial sexual activity  
13 where the victim is a minor;
- 14 (k) Criminal abuse in the first degree as described in KRS 508.100;
- 15 (l) Burglary in the first degree accompanied by the commission or attempted  
16 commission of an assault described in KRS 508.010, 508.020, 508.032, or  
17 508.060;
- 18 (m) Burglary in the first degree accompanied by commission or attempted  
19 commission of kidnapping as prohibited by KRS 509.040;
- 20 (n) Robbery in the first degree;~~[-or]~~
- 21 (o) Incest as described in KRS 530.020(2)(b) or (c);
- 22 **(p) Possession or viewing of matter portraying a sexual performance by a**  
23 **minor as described in KRS 531.335; or**
- 24 **(q) Distribution of matter portraying a sexual performance by a minor as**  
25 **described in KRS 531.340.**

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

- 1 (2) A violent offender who has been convicted of a capital offense and who has  
2 received a life sentence (and has not been sentenced to twenty-five (25) years  
3 without parole or imprisonment for life without benefit of probation or parole), or a  
4 Class A felony and receives a life sentence, or to death and his or her sentence is  
5 commuted to a life sentence shall not be released on probation or parole until he or  
6 she has served at least twenty (20) years in the penitentiary. Violent offenders may  
7 have a greater minimum parole eligibility date than other offenders who receive  
8 longer sentences, including a sentence of life imprisonment.
- 9 (3) (a) A violent offender who has been convicted of a capital offense or Class A  
10 felony with a sentence of a term of years or Class B felony shall not be  
11 released on probation or parole until he has served at least eighty-five percent  
12 (85%) of the sentence imposed.
- 13 (b) A violent offender who has been convicted of a violation of KRS 507.040  
14 where the victim of the offense was clearly identifiable as a peace officer, a  
15 firefighter, or emergency medical services personnel, and the victim was  
16 acting in the line of duty shall not be released on probation or parole until he  
17 or she has served at least eighty-five percent (85%) of the sentence imposed.
- 18 (c) A violent offender who has been convicted of a violation of KRS 507.040 or  
19 507.050 where the victim of the offense was a peace officer, a firefighter, or  
20 emergency medical services personnel, and the victim was acting in the line  
21 of duty shall not be released on probation or parole until he or she has served  
22 at least fifty percent (50%) of the sentence imposed.
- 23 (d) Any offender who has been convicted of a homicide or fetal homicide offense  
24 under KRS Chapter 507 or 507A in which the victim of the offense died as  
25 the result of an overdose of a Schedule I controlled substance and who is not  
26 otherwise subject to paragraph (a), (b), or (c) of this subsection shall not be  
27 released on probation, shock probation, parole, conditional discharge, or other

1 form of early release until he or she has served at least fifty percent (50%) of  
2 the sentence imposed.

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

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

12 (6) This section shall apply only to those persons who commit offenses after July 15,  
13 1998.

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

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

19 ➔Section 3. KRS 532.060 is amended to read as follows:

20 (1) A sentence of imprisonment for a felony shall be an indeterminate sentence, the  
21 maximum of which shall be fixed within the limits provided by subsection (2) *of*  
22 *this section*, and subject to modification by the trial judge pursuant to KRS  
23 532.070.

24 (2) Unless otherwise provided by law, the authorized maximum terms of imprisonment  
25 for felonies are:

26 (a) For a Class A felony, not less than twenty (20) years nor more than fifty (50)  
27 years, or life imprisonment;

- 1 (b) For a Class B felony, not less than ten (10) years nor more than twenty (20)  
2 years;
- 3 (c) For a Class C felony, not less than five (5) years nor more than ten (10) years;  
4 and
- 5 (d) For a Class D felony, not less than one (1) year nor more than five (5) years.
- 6 (3) For any felony specified in KRS Chapter 510 ~~or~~ KRS 529.100, 529.110, 530.020,  
7 530.064(1)(a), ~~or~~ 531.310, 531.320, 531.335, or 531.340, the sentence shall  
8 include an additional five (5) year period of postincarceration supervision which  
9 shall be added to the maximum sentence rendered for the offense. During this  
10 period of postincarceration supervision, if a defendant violates the provisions of  
11 postincarceration supervision, the defendant may be reincarcerated for:
- 12 (a) The remaining period of his initial sentence, if any is remaining; and  
13 (b) The entire period of postincarceration supervision, or if the initial sentence  
14 has been served, for the remaining period of postincarceration supervision.
- 15 (4) In addition to the penalties provided in this section, for any person subject to a  
16 period of postincarceration supervision pursuant to KRS 532.400 his or her  
17 sentence shall include an additional one (1) year period of postincarceration  
18 supervision following release from incarceration upon expiration of sentence if the  
19 offender is not otherwise subject to another form of postincarceration supervision.  
20 During this period of postincarceration supervision, if an offender violates the  
21 provisions of supervision, the offender may be reincarcerated for the remaining  
22 period of his or her postincarceration supervision.
- 23 (5) The actual time of release within the maximum established by subsection (1) of this  
24 section, or as modified pursuant to KRS 532.070, shall be determined under  
25 procedures established elsewhere by law.

26 ➔Section 4. KRS 532.200 is amended to read as follows:

27 As used in KRS 532.210 to 532.250, unless the context otherwise requires:



- 1 (1) "Home" means the temporary or permanent residence of a defendant consisting of  
2 the actual living area. If more than one (1) residence or family is located on a single  
3 piece of property, "home" does not include the residence of any other person who is  
4 not part of the social unit formed by the defendant's immediate family. A hospital,  
5 nursing care facility, hospice, half-way house, group home, residential treatment  
6 facility, or boarding house may serve as a "home" under this section;
- 7 (2) "Home incarceration" means the use of a monitoring device approved by the  
8 commissioner of the Department of Corrections to facilitate a prisoner's ability to  
9 maintain gainful employment or to participate in programs approved as a condition  
10 of his or her incarceration, or both, using the person's home for purposes of  
11 confinement;
- 12 (3) "Violent felony offense" means an offense **that would classify a person as a violent**  
13 **offender under Section 2 of this Act**~~[defined in KRS 507.020 (murder), 507.030~~  
14 ~~(manslaughter in the first degree), 508.010 (assault in the first degree), 508.020~~  
15 ~~(assault in the second degree), 509.040 (kidnapping), 510.040 (rape in the first~~  
16 ~~degree), 510.070 (sodomy in the first degree), 510.110 (sexual abuse in the first~~  
17 ~~degree), 511.020 (burglary in the first degree), 513.020 (arson in the first degree),~~  
18 ~~513.030 (arson in the second degree), 513.040 (arson in the third degree), 515.020~~  
19 ~~(robbery in the first degree), 515.030 (robbery in the second degree), 520.020~~  
20 ~~(escape in the first degree), any criminal attempt to commit the offense (KRS~~  
21 ~~506.010), or conviction as a persistent felony offender (KRS 532.080) when the~~  
22 ~~offender has a felony conviction for any of the above listed offenses within the five~~  
23 ~~(5) year period preceding the date of the latest conviction];~~
- 24 (4) "Terminal illness" means a medically recognized disease for which the prognosis is  
25 death within six (6) months to a reasonable degree of medical certainty; and
- 26 (5) "Approved monitoring device" means an electronic device or apparatus which is  
27 capable of recording, tracking, or transmitting information as to the prisoner's

- 1 location or verifying the prisoner's presence or non-presence in the home, or both.  
2 The devices shall be minimally intrusive. Devices shall not be used without the  
3 prisoner's knowledge to record or transmit:
- 4 (a) Visual images other than the defendant's face;
  - 5 (b) Oral or wire communications or any auditory sound other than the defendant's  
6 voice; or
  - 7 (c) Information as to the prisoner's activities while inside the home.