

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 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~~  
17 ~~duty.]~~ 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 described in~~[prohibited by]~~ KRS 509.040;

5 (n) **Burglary in the first degree as described in KRS 511.020(1)(a);**

6 **(o) Robbery in the first degree;**~~[or]~~

7 **(p)**~~[or]~~ Incest as described in KRS 530.020(2)(b) or (c);

8 **(q) Assault in the second degree as described in KRS 508.020(1)(b) or (c); or**

9 **(r) Wanton endangerment in the first degree as described in Section 2 of this**  
10 **Act where the offense involves the discharge of a firearm.**

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

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

21 (3) (a) A violent offender who has been convicted of a capital offense or Class A  
22 felony with a sentence of a term of years or Class B felony shall not be  
23 released on probation or parole until he has served at least eighty-five percent  
24 (85%) of the sentence imposed.

25 (b) A violent offender who has been convicted of a violation of KRS 507.040  
26 where the victim of the offense was clearly identifiable as a peace officer, a  
27 firefighter, or emergency medical services personnel, and the victim was

1 acting in the line of duty shall not be released on probation or parole until he  
2 or she has served at least eighty-five percent (85%) of the sentence imposed.

3 (c) A violent offender who has been convicted of a violation of KRS 507.040 or  
4 507.050 where the victim of the offense was a peace officer, a firefighter, or  
5 emergency medical services personnel, and the victim was acting in the line  
6 of duty shall not be released on probation or parole until he or she has served  
7 at least fifty percent (50%) of the sentence imposed.

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

15 (e) A violent offender who has been convicted of a Class C felony violation of  
16 Section 2 of this Act or assault in the second degree as described in KRS  
17 508.020(1)(b) or (c) shall not be released on probation, shock probation,  
18 parole, conditional discharge, or other form of early release until he or she  
19 has served at least sixty-five percent (65%) of the sentence imposed.

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

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

1 or sodomy in the first degree by the defendant.

2 (6) This section shall apply only to those persons who commit offenses after July 15,  
3 1998.

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

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

9 ➔Section 2. KRS 508.060 is amended to read as follows:

10 (1) A person is guilty of wanton endangerment in the first degree when, under  
11 circumstances manifesting extreme indifference to the value of human life, he or  
12 she wantonly engages in conduct which creates a substantial danger of death or  
13 serious physical injury to another person.

14 (2) Wanton endangerment in the first degree is a Class D felony, unless the person  
15 discharges a firearm in the commission of the offense, in which case it is a Class  
16 C felony.

17 ➔Section 3. KRS 635.020 is amended to read as follows:

18 (1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a  
19 child before the court has committed a felony other than those described in  
20 subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall  
21 initially proceed in accordance with the provisions of this chapter.

22 (2) If a child charged with a capital offense, Class A felony, or Class B felony, had  
23 attained age fourteen (14) at the time of the alleged commission of the offense, the  
24 court shall, upon motion of the county attorney made prior to adjudication, and after  
25 the county attorney has consulted with the Commonwealth's attorney, that the child  
26 be proceeded against as a youthful offender, proceed in accordance with the  
27 provisions of KRS 640.010.

1 (3) If a child charged with a Class C or Class D felony has on one (1) prior separate  
2 occasion been adjudicated a public offender for a felony offense and had attained  
3 the age of sixteen (16) at the time of the alleged commission of the offense, the  
4 court shall, upon motion of the county attorney made prior to adjudication, and after  
5 the county attorney has consulted with the Commonwealth's attorney, that the child  
6 be proceeded against as a youthful offender, proceed in accordance with the  
7 provisions of KRS 640.010.

8 (4) (a) If a child charged with a felony in which a firearm, whether functional or not,  
9 was used by the child in the commission of the offense had attained the age of  
10 fourteen (14) years at the time of the commission of the alleged offense, the  
11 court shall, upon motion of the county attorney made prior to adjudication,  
12 and after the county attorney has consulted with the Commonwealth's  
13 attorney, that the child be proceeded against as a youthful offender, proceed in  
14 accordance with KRS 640.010.

15 (b) 1. Any other provision of KRS Chapters 610 to 645 to the contrary  
16 notwithstanding, if a child charged with a felony in which a firearm,  
17 whether functional or not, was used in the commission of the offense  
18 had attained the age of fifteen (15) years at the time of the commission  
19 of the alleged offense, he or she shall be transferred to the Circuit  
20 Court for trial as an adult if, following a preliminary hearing, the  
21 District Court finds probable cause to believe that:

22 a. The child committed a felony;

23 b. A firearm was used in the commission of that felony; and

24 c. The child was fifteen (15) years of age or older at the time of the  
25 commission of the alleged felony.

26 2. If convicted in the Circuit Court, he or she shall be subject to the same  
27 penalties as an adult offender, except that until he or she reaches the

1                   age of eighteen (18) years, he or she shall be confined in a facility or  
 2                   program for juveniles or for youthful offenders, unless the provisions  
 3                   of KRS 635.025 apply or unless he or she is released pursuant to  
 4                   expiration of sentence or parole, and at age eighteen (18) he or she  
 5                   shall be returned to the sentencing Circuit Court for proceedings  
 6                   consistent with KRS 640.030(2).

7                   3. If convicted in the Circuit Court and he or she is returned to the  
 8                   sentencing Circuit Court for proceedings consistent with KRS  
 9                   640.030(2), her or she shall not be eligible for probation or conditional  
 10                   discharge.

11 (5) If a child previously convicted as a youthful offender under the provisions of KRS  
 12 Chapter 640 is charged with a felony allegedly committed prior to his or her  
 13 eighteenth birthday, the court shall, upon motion of the county attorney made prior  
 14 to adjudication, and after the county attorney has consulted with the  
 15 Commonwealth's attorney, that the child be proceeded against as a youthful  
 16 offender, proceed in accordance with the provisions of KRS 640.010.

17 (6) A child who is charged as is provided in subsection (2) of this section and is also  
 18 charged with a Class C or D felony, a misdemeanor, or a violation arising from the  
 19 same course of conduct shall have all charges included in the same proceedings;  
 20 and the court shall, upon motion of the county attorney made prior to adjudication,  
 21 and after the county attorney has consulted with the Commonwealth's attorney, that  
 22 the child be proceeded against as a youthful offender, proceed in accordance with  
 23 the provisions of KRS 640.010.

24 (7) If a person who is eighteen (18) or older and before the court is charged with a  
 25 felony that occurred prior to his or her eighteenth birthday, the court shall, upon  
 26 motion of the county attorney made prior to adjudication, and after the county  
 27 attorney has consulted with the Commonwealth's attorney, that the child be

1           proceeded against as a youthful offender, proceed in accordance with the provisions  
2           of KRS 640.010.

3 (8) All offenses arising out of the same course of conduct shall be tried with the felony  
4           arising from that course of conduct, whether the charges are adjudicated under this  
5           chapter or under KRS Chapter 640 and transferred to Circuit Court.