

1 AN ACT relating to parole for 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 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 died ~~[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 resulting in the  
19           death of the victim shall not be released on probation or parole until he or she  
20           has served at least eighty-five percent (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  
 2 of duty shall not be released on probation or parole until he or she has served  
 3 at 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  
 6 the 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 (e) A violent offender who has been convicted of a Class B felony not resulting  
 12 in the death of the victim shall not be released on probation or parole until  
 13 he or she has served at least fifty percent (50%) of the sentence imposed.

14 (4) A violent offender who has not completed the treatment program established  
 15 pursuant to Section 2 of this Act shall not be:

16 (a) Awarded any credit on his or her sentence authorized by KRS  
 17 197.045(1)(b)1.; or ~~In no event shall A violent offender be~~

18 (b) Given credit on his or her sentence if the credit reduces the term of  
 19 imprisonment to less than fifty percent (50%) of the sentence  
 20 imposed ~~[eighty five percent (85%) of the sentence].~~

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

26 (6) This section shall apply only to those persons who commit offenses after July 15,  
 27 1998.

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

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

6 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO  
7 READ AS FOLLOWS:

8 *(1) As used in this section, "violent offender" has the same meaning as in Section 1*  
9 *of this Act.*

10 *(2) The department shall operate a specialized treatment program for violent*  
11 *offenders and shall promulgate administrative regulations establishing the design*  
12 *of the specialized treatment program.*

13 *(3) The program shall include diagnostic services and treatment services in both*  
14 *inpatient and outpatient environments. As used in this subsection:*

15 *(a) "Diagnostic services" includes social and family histories, medical history,*  
16 *educational development, interpersonal development, criminal history,*  
17 *psychological screening, and prerelease evaluation; and*

18 *(b) "Treatment services" includes individualized treatment plans that include*  
19 *individual, group, marital, and family counseling; psychoeducational*  
20 *courses, including behavioral education and victim personalization; and*  
21 *social skills development, including assertiveness training, stress*  
22 *management, and aggression management.*

23 *The department shall have the authority and responsibility for establishing other*  
24 *educational and work programs necessary to complement the program's*  
25 *objectives.*

26 *(4) The department may transfer violent offenders sentenced to its custody to the*  
27 *program and shall adopt administrative regulations concerning the transfer of*

1 violent offenders.

2 (5) Violent offenders participating in the program shall be housed separately from all  
3 other incarcerated inmates in accordance with the department's standard  
4 classification system.

5 (6) The treatment staff of the program shall include:

6 (a) A program director who has at least a master's degree in a recognized  
7 mental health field and six (6) years' clinical experience or a doctoral  
8 degree in a recognized mental health field and four (4) years' clinical  
9 experience. The director shall decide program policies and supervise all  
10 staff;

11 (b) A clinical psychologist or a master's degree level psychologist for each two  
12 hundred (200) participants. At least one (1) clinical psychologist shall be a  
13 member of the staff at all times; and

14 (c) A counselor for each fifty (50) participants.

15 (7) The department shall establish a system of data collection and program  
16 evaluation to allow study of participating violent offenders and their offenses and  
17 to measure the impact of the program on recidivism.

18 (8) The department may enter into agreements with public or private agencies in  
19 order to implement and operate the program.