

1 AN ACT relating to jury sentencing.

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

3 ➔Section 1. KRS 421.500 is amended to read as follows:

- 4 (1) (a) As used in KRS 421.500 to 421.575, "victim" means an individual directly
5 and proximately harmed as a result of:
- 6 1. The commission of a crime classified as a felony; a misdemeanor
7 involving threatened or actual physical injury, harassment, or restraint; a
8 misdemeanor involving a child or incompetent person; or a
9 misdemeanor involving a sexual offense or a trespass; or
 - 10 2. Conduct which, if committed by an adult, would be classified as a
11 felony or a misdemeanor described in subparagraph 1. of this paragraph.
- 12 If the victim is a minor, incapacitated, or deceased, "victim" also means one
13 (1) or more of the victim's spouse, parents, siblings, children, or other lawful
14 representatives which shall be designated by the court unless the person is the
15 defendant or a person the court finds would not act in the best interests of the
16 victim.
- 17 (b) In a case in which the number of victims makes it impracticable to accord all
18 victims those rights provided by KRS 421.500 to 421.575, the court may
19 fashion a reasonable procedure that does not unduly complicate or prolong the
20 proceeding, to give effect to this section.
- 21 (c) If the victim is deceased and the relation is not the defendant, the following
22 relations shall be designated as "victims" for the purpose of presenting victim
23 impact testimony~~[under KRS 532.055(2)(a)7.]~~:
- 24 1. A spouse;
 - 25 2. An adult child;
 - 26 3. A parent;
 - 27 4. A sibling; and

- 1 5. A grandparent.
- 2 (2) If any court believes that the health, safety, or welfare of a victim who is a minor or
3 is legally incapacitated would not otherwise adequately be protected, the court may
4 appoint a special advocate to represent the interest of the victim and to exercise
5 those rights provided for by KRS 421.500 to 421.575. Communication between the
6 victim and the special advocate shall be privileged.
- 7 (3) Law enforcement personnel shall ensure that victims receive information on
8 available protective, emergency, social, and medical services upon initial contact
9 with the victim and are given information on the following as soon as possible:
- 10 (a) Availability of crime victim compensation where applicable;
- 11 (b) Community-based treatment programs;
- 12 (c) The criminal justice process as it involves the participation of the victim or
13 witness;
- 14 (d) The arrest of the accused; and
- 15 (e) How to register to be notified when a person has been released from prison,
16 jail, a juvenile detention facility, or a psychiatric facility or forensic
17 psychiatric facility if the case involves a violent crime as defined in KRS
18 439.3401 and the person charged with or convicted of the offense has been
19 involuntarily hospitalized pursuant to KRS Chapter 202A.
- 20 (4) Law enforcement officers and attorneys for the Commonwealth shall provide
21 information to victims and witnesses on how they may be protected from
22 intimidation, harassment, and retaliation as defined in KRS 524.040 or 524.055.
- 23 (5) Attorneys for the Commonwealth shall make a reasonable effort to ensure~~insure~~
24 that:
- 25 (a) All victims and witnesses who are required to attend criminal justice
26 proceedings are notified promptly of any scheduling changes that affect their
27 appearances;

- 1 (b) If victims so desire and if they provide the attorney for the Commonwealth
2 with a current address and telephone number, they shall receive prompt
3 notification, if possible, of judicial proceedings relating to their case,
4 including but not limited to the defendant's release on bond and any special
5 conditions of release; of the charges against the defendant, the defendant's
6 pleading to the charges, and the date set for the trial; of notification of
7 changes in the custody of the defendant and changes in trial dates; of the
8 verdict, the victim's right to make an impact statement for consideration by
9 the court at the time of sentencing of the defendant, the date of sentencing, the
10 victim's right to receive notice of any parole board hearing held for the
11 defendant, and that the office of Attorney General will notify the victim if an
12 appeal of the conviction is pursued by the defendant; and of a scheduled
13 hearing for shock probation or for bail pending appeal and any orders
14 resulting from that hearing;
- 15 (c) The victim knows how to register to be notified when a person has been
16 released from a prison, jail, a juvenile detention facility, or a psychiatric
17 facility or forensic psychiatric facility if the case involves a violent crime as
18 defined in KRS 439.3401 and the person charged with or convicted of the
19 offense has been involuntarily hospitalized pursuant to KRS Chapter 202A;
- 20 (d) The victim receives information on available:
- 21 1. Protective, emergency, social, and medical services;
 - 22 2. Crime victim compensation, where applicable;
 - 23 3. Restitution, where applicable;
 - 24 4. Assistance from a victim advocate; and
 - 25 5. Community-based treatment programs; and
- 26 (e) The victim of crime may, pursuant to KRS 15.247, receive protection from
27 harm and threats of harm arising out of cooperation with law enforcement and

1 prosecution efforts.

2 (6) The victim shall be consulted by the attorney for the Commonwealth on the
3 disposition of the case, including dismissal, release of the defendant pending
4 judicial proceedings, any conditions of release, a negotiated plea, and entry into a
5 pretrial diversion program.

6 (7) In prosecution for offenses listed in this section for the purpose of defining
7 "victim," law enforcement agencies and attorneys for the Commonwealth shall
8 promptly return a victim's property held for evidentiary purposes unless there is a
9 compelling reason for retaining it. Photographs of such property shall be received
10 by the court as competent evidence in accordance with ~~the provisions of~~ KRS
11 422.350.

12 (8) A victim or witness who so requests shall be assisted by law enforcement agencies
13 and attorneys for the Commonwealth in informing employers that the need for
14 victim or witness cooperation in the prosecution of the case may necessitate
15 absence of that victim or witness from work.

16 (9) The Attorney General, where possible, shall provide technical assistance to law
17 enforcement agencies and attorneys for the Commonwealth if such assistance is
18 requested for establishing a victim assistance program.

19 (10) If a defendant seeks appellate review of a conviction and the Commonwealth is
20 represented by the Attorney General, the Attorney General shall make a reasonable
21 effort to notify victims promptly of the appeal, the status of the case, and the
22 decision of the appellate court.

23 (11) Full restitution to a named victim, if there is a named victim, shall be ordered by the
24 court to be paid by the convicted or adjudicated party in a manner consistent,
25 insofar as possible, with this section and KRS 439.563, 532.032, 532.033, 533.020,
26 and 533.030 in addition to any other penalty.

27 (12) Nothing in KRS 421.500 to 421.575 shall be construed as altering the presumption

1 of innocence in the criminal justice system, or to be a waiver of sovereign immunity
2 or any other immunity or privilege maintained by the Commonwealth; its cabinets,
3 departments, bureaus, political subdivisions, and agencies; and its officers, agents,
4 and employees.

5 ➔Section 2. The following KRS section is repealed:

6 532.055 Verdicts and sentencing by jury in felony cases.