

1 AN ACT relating to crime victims' rights.

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

3 ➔Section 1. KRS 421.576 is repealed and reenacted to read as follows:

- 4 (1) In order to ***secure for victims of criminal acts or public offenses justice and due***  
5 ***process and to ensure crime victims a meaningful role throughout the criminal***  
6 ***and juvenile justice systems, to*** establish the minimum conduct of criminal justice  
7 professionals with respect to crime victims, and to communicate the intent of the  
8 General Assembly that victims of crime play an integral role in the criminal justice  
9 process ***and are entitled to fairness and due consideration of the crime victim's***  
10 ***safety, dignity, and privacy,*** KRS 421.500 to 421.575 is hereby named the  
11 Kentucky Crime Victim Bill of Rights.
- 12 (2) The rights established by KRS 421.500 to 421.575 ***shall be respected and protected***  
13 ***by law, and*** shall apply in all felony and misdemeanor proceedings in a District or  
14 Circuit Court of the Commonwealth ***and in any public offense proceedings in the***  
15 ***juvenile session of a District Court.***
- 16 (3) ***In any case with a victim, no judge shall conduct an arraignment, pretrial***  
17 ***hearing, trial, sentencing hearing, or take a guilty plea without a statement from***  
18 ***the Commonwealth's or county attorney:***
- 19 ***(a) That he or she has contacted, or made a good faith attempt to contact, any***  
20 ***victim;***
- 21 ***(b) Stating whether or not the victim had responded; and***
- 22 ***(c) Providing a summary of the victim's response.***
- 23 **(4)** Nothing in KRS 421.500 to 421.575 shall provide grounds for the victim to  
24 challenge a charging decision or a conviction, to obtain a stay of trial, or to compel  
25 a new trial. Law enforcement agencies, county attorneys, and Commonwealth's  
26 attorneys and courts shall make every reasonable effort to ensure that victims of  
27 crime receive the benefits of the rights set out in KRS 421.500 to 421.575.

1 (5) Nothing in KRS 421.500 to 421.575 creates a cause of action for compensation,  
 2 attorney's fees, or damages against the Commonwealth, a county, city, municipal  
 3 corporation, or other political subdivision of the Commonwealth, an officer,  
 4 employee, or agent of the Commonwealth, a county, city, municipal corporation,  
 5 or any political subdivision of the Commonwealth, or an officer or employee of  
 6 the court. Nothing in KRS 421.500 to 421.575 shall be construed as creating a  
 7 basis for vacating a conviction or a ground for any relief requested by the  
 8 defendant.

9 ➔Section 2. KRS 421.500 is repealed, reenacted, and amended to read as follows:

10 (1) As used in KRS 421.500 to 421.575, "victim" means an individual who  
 11 suffers direct or threatened physical, financial, or emotional harm as a result  
 12 of the commission of a crime classified as stalking, unlawful imprisonment,  
 13 use of a minor in a sexual performance, unlawful transaction with a minor in  
 14 the first degree, terroristic threatening, menacing, harassing communications,  
 15 intimidating a witness, criminal homicide, robbery, rape, assault, sodomy,  
 16 kidnapping, burglary in the first or second degree, sexual abuse, wanton  
 17 endangerment, criminal abuse, human trafficking, or incest. If the victim is a  
 18 minor or legally incapacitated, "victim" means a parent, guardian, custodian or  
 19 court-appointed special advocate.

20 (a) If the victim is deceased and the relation is not the defendant, the following  
 21 relations shall be designated as "victim" for the purpose of exercising those  
 22 rights contained in KRS 421.500 to 421.575:

- 23 1. The spouse;
- 24 2. An adult child if subparagraph 1. of this paragraph does not apply;
- 25 3. A parent if subparagraphs 1. and 2. of this paragraph do not apply;
- 26 4. A sibling if subparagraphs 1. to 3. of this paragraph do not apply; and
- 27 5. A grandparent if subparagraphs 1. to 4. do not apply.

1 (b) If the victim is deceased and the relation is not the defendant, the following  
 2 relations shall be designated as "victims" for the purpose of presenting victim  
 3 impact testimony under KRS 532.055(2)(a)7.:

- 4 1. A spouse;
- 5 2. An adult child;
- 6 3. A parent;
- 7 4. A sibling; and
- 8 5. A grandparent.

9 (2) Victims shall maintain updated contact information with the office of the  
 10 Commonwealth's attorney or county attorney, and shall have the right:

11 (a) To be informed of their rights under this section;

12 (b) To criminal proceedings free from unreasonable delay;

13 (c) Upon written request, to timely notice of all proceedings, and of release or  
 14 escape of the accused;

15 (d) Upon written request, to be heard in any proceeding involving a release,  
 16 plea, sentencing, or in the consideration of any pardon, commutation of  
 17 sentence, granting of a reprieve, or other matter involving the right of a  
 18 victim other than grand jury proceedings; and

19 (e) Upon written request, to consult with the attorney for the Commonwealth or  
 20 the attorney's designee.

21 **(3)** If any court believes that the health, safety, or welfare of a victim who is a minor or  
 22 is legally incapacitated would not otherwise adequately be protected, the court may  
 23 appoint a special advocate to represent the interest of the victim and to exercise  
 24 those rights provided for by KRS 421.500 to 421.575. Communication between the  
 25 victim and the special advocate shall be privileged.

26 ~~{(3) Law enforcement personnel shall ensure that victims receive information on~~  
 27 ~~available protective, emergency, social, and medical services upon initial contact~~

- 1       ~~with the victim and are given information on the following as soon as possible:~~
- 2       ~~(a) Availability of crime victim compensation where applicable;~~
- 3       ~~(b) Community based treatment programs;~~
- 4       ~~(c) The criminal justice process as it involves the participation of the victim or~~
- 5               ~~witness;~~
- 6       ~~(d) The arrest of the accused; and~~
- 7       ~~(e) How to register to be notified when a person has been released from prison,~~
- 8               ~~jail, a juvenile detention facility, or a psychiatric facility or forensic~~
- 9               ~~psychiatric facility if the case involves a violent crime as defined in KRS~~
- 10              ~~439.3401 and the person charged with or convicted of the offense has been~~
- 11              ~~involuntarily hospitalized pursuant to KRS Chapter 202A.]~~
- 12   (4) ~~[Law enforcement officers and ]~~Attorneys for the Commonwealth shall provide
- 13       information to victims and witnesses on how they may be protected from
- 14       intimidation, harassment, and retaliation as defined in KRS 524.040 or 524.055.
- 15   (5) Attorneys for the Commonwealth shall make a reasonable effort to insure that:
- 16       (a) All victims and witnesses who are required to attend criminal justice
- 17           proceedings are notified promptly of any scheduling changes that affect their
- 18           appearances;
- 19       (b) If victims so desire and if they provide the attorney for the Commonwealth
- 20           with a current address and telephone number, they shall receive prompt
- 21           notification, if possible, of judicial proceedings relating to their case,
- 22           including but not limited to the defendant's release on bond and any special
- 23           conditions of release; of the charges against the defendant, the defendant's
- 24           pleading to the charges, and the date set for the trial; of notification of changes
- 25           in the custody of the defendant and changes in trial dates; of the verdict, the
- 26           victim's right to make an impact statement for consideration by the court at the
- 27           time of sentencing of the defendant, the date of sentencing, the victim's right

1 to receive notice of any parole board hearing held for the defendant, and that  
2 the office of Attorney General will notify the victim if an appeal of the  
3 conviction is pursued by the defendant; and of a scheduled hearing for shock  
4 probation or for bail pending appeal and any orders resulting from that  
5 hearing;

6 (c) The victim knows how to register to be notified when a person has been  
7 released from a prison, jail, a juvenile detention facility, or a psychiatric  
8 facility or forensic psychiatric facility if the case involves a violent crime as  
9 defined in KRS 439.3401 and the person charged with or convicted of the  
10 offense has been involuntarily hospitalized pursuant to KRS Chapter 202A;

11 (d) The victim receives information on available:

- 12 1. Protective, emergency, social, and medical services;
- 13 2. Crime victim compensation, where applicable;
- 14 3. Restitution, where applicable;
- 15 4. Assistance from a victim advocate; and
- 16 5. Community-based treatment programs; and

17 (e) The victim of crime may, pursuant to KRS 15.247, receive protection from  
18 harm and threats of harm arising out of cooperation with law enforcement and  
19 prosecution efforts.

20 (6) The victim shall be consulted by the attorney for the Commonwealth , or the  
21 attorney for the Commonwealth shall make a good-faith effort to consult with the  
22 victim, prior to~~on~~ the disposition of the case, including dismissal, release of the  
23 defendant pending judicial proceedings, any conditions of release, a negotiated plea,  
24 and entry into a pretrial diversion program. The attorney for the Commonwealth  
25 shall state for the record whether the victim was consulted or a good-faith effort  
26 was made, and a summary of the victim's response.

27 (7) In prosecution for offenses listed in this section for the purpose of defining

1 "victim," ~~law enforcement agencies and~~ attorneys for the Commonwealth shall  
2 promptly return a victim's property held for evidentiary purposes unless there is a  
3 compelling reason for retaining it. Photographs of such property shall be received  
4 by the court as competent evidence in accordance with the provisions of KRS  
5 422.350.

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

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

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

17 ➔Section 3. KRS 421.510 is repealed and reenacted to read as follows:

18 (1) Where the victim is less than sixteen (16) years old and the crime is a sexual offense  
19 including violations of KRS 510.040 to 510.150, 530.020, 530.064(1)(a), 530.070,  
20 531.310, 531.320, and 531.370, a speedy trial may be scheduled as provided in  
21 subsection (2) of this section.

22 (2) The court, upon motion by the attorney for the Commonwealth for a speedy trial,  
23 shall set a hearing date on the motion within ten (10) days of the date of the motion.  
24 If the motion is granted, the trial shall be scheduled within ninety (90) days from the  
25 hearing date.

26 (3) In ruling on any motion or other request for a delay or continuance of the  
27 proceedings, the court shall consider and give weight to any adverse impact the

1 delay or continuance may have on the well-being of a child victim or witness.

2 ➔Section 4. KRS 421.520 is repealed and reenacted to read as follows:

3 (1) The attorney for the Commonwealth shall notify the victim that, upon conviction of  
4 the defendant, the victim has the right to submit a written victim impact statement  
5 to the probation officer responsible for preparing the presentence investigation  
6 report for inclusion in the report or to the court should such a report be waived by  
7 the defendant.

8 (2) The impact statement may contain, but need not be limited to, a description of the  
9 nature and extent of any physical, psychological or financial harm suffered by the  
10 victim, the victim's need for restitution and whether the victim has applied for or  
11 received compensation for financial loss, and the victim's recommendation for an  
12 appropriate sentence.

13 (3) The victim impact statement shall be considered by the court prior to any decision  
14 on the sentencing or release, including shock probation, of the defendant.

15 ➔Section 5. KRS 421.530 is repealed and reenacted to read as follows:

16 (1) If a defendant is sentenced to a period of incarceration and his release is subject to  
17 the authority of the parole board, the victim may submit a written impact statement  
18 to the parole board that it shall consider when making a decision on the release of  
19 the defendant.

20 (2) The impact statement may contain, but need not be limited to, a description of the  
21 long-term consequences of the crime, including but not necessarily limited to, the  
22 physical, psychological and financial harm suffered by the victim, and whether the  
23 victim has applied for or received compensation for financial loss.

24 ➔Section 6. KRS 421.550 is amended to read as follows:

25 (1) Nothing in KRS 421.500 to 421.575~~[421.510 to 421.540], [or KRS]~~ 15.245, or  
26 196.280~~[, or 421.500]~~ creates a cause of action for money damages against the state,  
27 a county, a municipality, or any of their agencies, public officials, or employees.

- 1 (2) The jailer or chief administrator of a juvenile detention facility, regional jail, or  
2 county jail, or any of their respective designees who acts in good faith in making  
3 available the release information required by KRS 196.280, or in good faith fails or  
4 is unable to provide the release information required by KRS 196.280, shall be  
5 immune from any criminal liability.
- 6 (3) The jailer or chief administrator of a juvenile detention facility, regional jail, or  
7 county jail, or any of their respective designees, who acts in good faith in making  
8 available the release information required by KRS 196.280, or in good faith fails or  
9 is unable to provide the release information required by KRS 196.280, and who is  
10 sued for any act or omission in relation to KRS 196.280, and who has a judgment  
11 rendered against him and who personally suffers actual financial loss, unreimbursed  
12 from any source, by the enforcement and satisfaction of the judgment, including any  
13 costs or attorney's fees awarded pursuant thereto, shall be indemnified by the  
14 Commonwealth from funds appropriated to the Finance and Administration Cabinet  
15 for the payment of judgments, to the extent of his actual financial loss. The  
16 indemnification shall not be construed to abrogate or limit any privilege, immunity,  
17 or matter of defense otherwise available to the person claiming indemnification and  
18 shall not constitute a waiver of any privilege, immunity, or matter of defense,  
19 including the sovereign immunity of the Commonwealth.
- 20 (4) The Attorney General shall defend the jailer, chief administrator, or designee upon  
21 request, in any suit related to the provision of information under KRS 196.280.
- 22 (5) An attorney for the Commonwealth who acts in good faith in his or her  
23 ministerial duties under KRS 421.500 to 421.575 shall be immune from criminal  
24 or civil liability. The immunity shall not be construed to abrogate or limit any  
25 privilege, immunity, or matter of defense otherwise available and shall not  
26 constitute a waiver of any privilege, immunity, or matter of defense, including the  
27 sovereign immunity of the Commonwealth.



1           ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 421 IS CREATED TO  
2 READ AS FOLLOWS:

3 **Law enforcement personnel shall:**

- 4 **(1) Ensure that victims receive information on available protective, emergency,**  
5 **social, and medical services upon initial contact with the victim and are given**  
6 **information on the following as soon as possible:**  
7 **(a) Availability of crime victim compensation where applicable;**  
8 **(b) Community- based treatment programs;**  
9 **(c) The criminal justice process as it involves the participation of the victim or**  
10 **witness;**  
11 **(d) The arrest of the accused; and**  
12 **(e) How to register to be notified when a person has been released from prison,**  
13 **jail, a juvenile detention facility, or a psychiatric facility or forensic**  
14 **psychiatric facility if the case involves a violent crime as defined in KRS**  
15 **439.3401 and the person charged with or convicted of the offense has been**  
16 **involuntarily hospitalized pursuant to KRS Chapter 202A.**  
17 **(2) Provide information to victims and witnesses on how they may be protected from**  
18 **intimidation, harassment, and retaliation as defined in KRS 524.040 or 524.055.**  
19 **(3) Promptly return a victim's property held for evidentiary purposes unless there is a**  
20 **compelling reason for retaining it. Photographs of such property shall be**  
21 **received by the court as competent evidence in accordance with KRS 422.350.**  
22 **(4) If requested by a victim or witness, assist in informing employers that the need**  
23 **for victim or witness cooperation in the prosecution of the case may necessitate**  
24 **absence of that victim or witness from work.**