

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 194A.380 is amended to read as follows:

4 As used in KRS 194A.380 to 194A.383:

- 5 (1) "Criminal offense against a minor" means a conviction or a plea of guilty to any of  
6 the following offenses if the victim is under the age of eighteen (18) at the time of  
7 the commission of the offense:
- 8 (a) Kidnapping, as in KRS 509.040, except by a parent;
  - 9 (b) Unlawful imprisonment, as in KRS 509.020, except by a parent;
  - 10 (c) Sexual misconduct as in KRS 510.140;
  - 11 (d) Use of a minor in a sexual performance, as in KRS 531.310;
  - 12 (e) Promoting a sexual performance of a minor, as in KRS 531.320;
  - 13 (f) Possession or viewing matter portraying a sexual performance by a minor, as  
14 in KRS 531.335;
  - 15 (g) Distribution of matter portraying a sexual performance by a minor, as in KRS  
16 531.340;
  - 17 (h) Promoting the sale of material portraying a sexual performance by a minor, as  
18 in KRS 531.350;
  - 19 (i) Advertising material portraying a sexual performance by a minor, as in KRS  
20 531.360;
  - 21 (j) Using minors to distribute material portraying a sexual performance by a  
22 minor, as in KRS 531.370;
  - 23 (k) Human trafficking involving commercial sexual activity, as in KRS 529.100;
  - 24 (l) Promoting prostitution, as in KRS 529.040, when the defendant advances or  
25 profits from the prostitution of a person under the age of eighteen (18);
  - 26 (m) Unlawful transaction with a minor in the first degree, as in KRS  
27 530.064(1)(a);

- 1 (n) Any attempt to commit any of the offenses described in paragraphs (a) to (m)  
2 of this subsection; or
- 3 (o) Solicitation to commit any of the offenses described in paragraphs (a) to (m)  
4 of this subsection;
- 5 (2) "Sex crime" means a conviction or a plea of guilty to any of the following offenses:
- 6 (a) Rape in the first degree as in KRS 510.040;
- 7 (b) Rape in the second degree as in KRS 510.050;
- 8 (c) Rape in the third degree as in KRS 510.060;
- 9 (d) Sodomy in the first degree as in KRS 510.070;
- 10 (e) Sodomy in the second degree as in KRS 510.080;
- 11 (f) Sodomy in the third degree as in KRS 510.090;
- 12 (g) ~~Sodomy in the fourth degree as in KRS 510.100;~~
- 13 ~~(h)~~ Sexual abuse in the first degree as in KRS 510.110;
- 14 (h)~~(i)~~ Sexual abuse in the second degree as in KRS 510.120;
- 15 (i)~~(j)~~ Sexual abuse in the third degree as in KRS 510.130;
- 16 (j)~~(k)~~ Indecent exposure in the first degree as in KRS 510.148;
- 17 (k)~~(l)~~ Indecent exposure in the second degree as in KRS 510.150;
- 18 (l)~~(m)~~ Unlawful use of electronic means originating or received within the  
19 Commonwealth to induce a minor to engage in sexual or other prohibited  
20 activities as in KRS 510.155; or
- 21 (m)~~(n)~~ Incest as in KRS 530.020;
- 22 (3) "Violent offender" means any person who has been convicted of or who has entered  
23 a plea of guilty to the commission of a capital offense, Class A felony, Class B  
24 felony involving the death of the victim or serious physical injury to the victim, or  
25 rape in the first degree, or sodomy in the first degree; and
- 26 (4) "Youth camp" or "camp" means:
- 27 (a) Any camp required pursuant to KRS 211.180 to obtain a permit to operate;

1           and

2           (b) Any program offered, whether free or for a fee, for recreational, educational,  
3           sports training, or vacation purposes to children under eighteen (18) years of  
4           age that a child attends outside the presence of his or her parent or legal  
5           guardian.

6           ➔Section 2. KRS 532.031 is amended to read as follows:

7           (1) A person may be found by the sentencing judge to have committed an offense  
8           specified below as a result of a hate crime if the person intentionally because of  
9           race, color, religion, sexual orientation, or national origin of another individual or  
10          group of individuals or because of a person's actual or perceived employment as a  
11          state, city, county, or federal peace officer, member of an organized fire department,  
12          or emergency medical services personnel, violates a provision of any one (1) of the  
13          following:

14          (a) KRS 508.010, 508.020, 508.025, or 508.030;

15          (b) KRS 508.050 or 508.060;

16          (c) KRS 508.100 or 508.110;

17          (d) KRS 509.020;

18          (e) KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090,~~510.100,~~ or  
19          510.110;

20          (f) KRS 512.020, 512.050, or 512.060;

21          (g) KRS 513.020, 513.030, or 513.040; or

22          (h) KRS 525.020, 525.050, 525.060, 525.070, or 525.080.

23          (2) At sentencing, the sentencing judge shall determine if, by a preponderance of the  
24          evidence presented at the trial, a hate crime was a primary factor in the commission  
25          of the crime by the defendant. If so, the judge shall make a written finding of fact  
26          and enter that in the court record and in the judgment rendered against the  
27          defendant.

1 (3) The finding that a hate crime was a primary factor in the commission of the crime  
2 by the defendant may be utilized by the sentencing judge as the sole factor for  
3 denial of probation, shock probation, conditional discharge, or other form of  
4 nonimposition of a sentence of incarceration.

5 (4) The finding by the sentencing judge that a hate crime was a primary factor in the  
6 commission of the crime by the defendant may be utilized by the Parole Board in  
7 delaying or denying parole to a defendant.

8 (5) As used in this section:

9 (a) "Emergency medical services personnel" has the same meaning as in KRS  
10 311A.010; and

11 (b) "Member of an organized fire department, or emergency medical services  
12 personnel" includes volunteers, if the violation occurs while the volunteer is  
13 performing duties with an organized fire department or as emergency medical  
14 services personnel.

15 ➔Section 3. The following KRS section is repealed:

16 510.100 Sodomy in the fourth degree.