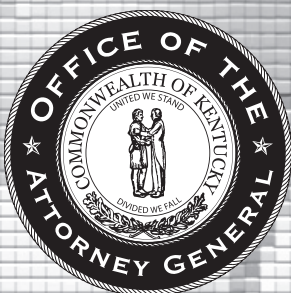
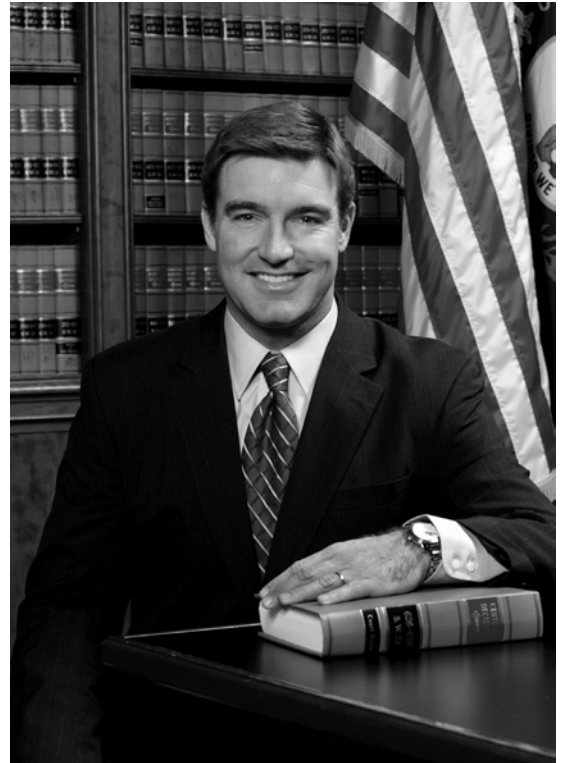


Kentucky Crime Victim Bill of Rights Handbook



revised January 2009



Dear Fellow Kentuckian,

As part of our commitment to assist crime victims in the Commonwealth, the Office of the Attorney General is pleased to present the latest version of the Kentucky Crime Victim Bill of Rights Handbook. This revised publication reflects changes resulting from legislation, as well as other valuable information.

According to the latest statistics available from the Bureau of Justice Statistics, United States residents age 12 or older experienced approximately 5.2 million violent crimes in 2004, and 10,152 violent crimes were reported in Kentucky that same year. These crimes are a grim reality that either affect us directly through victimization or indirectly through fear and intimidation. Together, we can lessen the impact and speed recovery.

I hope you find this publication a helpful tool in that process.

Sincerely,

A handwritten signature in cursive script that reads "Jack Conway". The signature is written in dark ink and is positioned to the right of the typed name.

Jack Conway
Attorney General

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Victim of Crime

Provisions of the Victims Bill of Rights apply to all felony and misdemeanor proceedings in a district or circuit court of the Commonwealth, and to individuals who have suffered direct or threatened physical, financial, or emotional harm as a result of the commission of a crime classified as any of the following:

- ▶ Stalking
- ▶ Unlawful imprisonment
- ▶ Use of a minor in a sexual performance
- ▶ Unlawful transaction with a minor in the first degree
- ▶ Terroristic threatening
- ▶ Menacing
- ▶ Harassing communications
- ▶ Intimidating a witness
- ▶ Criminal homicide
- ▶ Robbery
- ▶ Burglary in the first or second degree
- ▶ Rape
- ▶ Assault
- ▶ Sodomy
- ▶ Kidnapping
- ▶ Sexual abuse
- ▶ Wanton endangerment
- ▶ Criminal abuse
- ▶ Incest

“Victim” shall also mean a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. sec. 2331, committed outside the United States.

If the Victim is a Minor or Legally Incapacitated

Here “victim” also includes a parent, guardian, custodian or court appointed special advocate.

If the Victim is Deceased and the Relation is not the Defendant

The following relations shall be designated as “victim” for the purpose of exercising those rights contained in KRS 421.500-421.575:

- ▶ The spouse
- ▶ An adult child
- ▶ A parent
- ▶ A sibling
- ▶ A grandparent

Roles and Responsibilities

Law Enforcement

Upon initial contact with the victim, law enforcement personnel shall ensure that victims receive information on available protective, emergency, social and medical services, and are given as soon as possible the following information:

- ▶ Availability of crime victim compensation where applicable
- ▶ Community-based treatment programs
- ▶ The criminal justice process as it involves the participation of the victim or witness
- ▶ The arrest of the accused
- ▶ How to register to be notified when a person has been released from prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized
- ▶ Information on how victims may be protected from intimidation, harassment and retaliation, as defined in KRS 524.240, 524.045, or 524.055

Law enforcement shall also:

- ▶ promptly return a victim's property held for evidentiary purposes unless there is a compelling reason for retaining it
- ▶ upon request by a victim or witness, assist in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absences from work

Prosecutors

Information

Attorneys for the Commonwealth shall insure that victims receive available information on the following:

- ▶ Protective, emergency, social and medical services
- ▶ Crime victim compensation, where applicable
- ▶ Restitution, where applicable
- ▶ Obtaining assistance from a victim advocate
- ▶ Community-based treatment programs

Attorneys for the Commonwealth shall provide information to victims and witnesses on:

- ▶ how to register to be notified when a person has been released from a prison, jail, juvenile detention facility, psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized
- ▶ how to be protected from intimidation, harassment retaliation as defined in KRS 524.040, 524.045 or 524.055; and
- ▶ the Victim, Witness and Family Protection Program

Notification

If victims so desire and if they provide the attorney for the Commonwealth with a current address and telephone number, they shall receive prompt notification, if possible, of judicial proceedings relating to their case, including, but not limited to, the following:

- ▶ Defendant's release on bond and any special conditions of release
- ▶ Charges filed against the defendant
- ▶ The defendant's pleading to the charges
- ▶ Trial date
- ▶ A scheduled hearing for shock probation and any resulting orders
- ▶ A scheduled hearing for bail pending appeal and any resulting orders
- ▶ Changes in custody of the defendant
- ▶ Changes in the trial date
- ▶ Trial verdict
- ▶ Sentencing date
- ▶ Any parole board hearings held for the defendant
- ▶ A scheduled hearing for shock probation and any resulting orders
- ▶ A scheduled hearing for bail pending appeal and any resulting orders

Victims may also register with VINE Court Services to receive telephone and email notification when an offender's court information changes. This service is limited to felonies. To check the court status of a case, go to **courts.ky.gov** and select "Vine Court Services" to conduct a search. To register for notification call (800) 511-1670.

Attorneys for the Commonwealth shall make a reasonable effort to insure that victims and witnesses who are required to attend criminal justice proceedings are notified promptly of any scheduled changes that affect their appearances.

Attorneys for the Commonwealth shall notify the victim that upon the conviction of the defendant, the victim has the right to submit a written victim impact statement to the probation officer responsible for preparing the presentence investigation report for inclusion in the report, or to the court should such a report be waived by the defendant.

Attorneys for the Commonwealth shall make a reasonable effort to insure that victims receive prompt notification that the Attorney General will notify the victim if an appeal of the conviction is pursued by the defendant.

Consultation

Attorneys for the Commonwealth shall consult victims on case disposition including the following:

- ▶ Case dismissal
- ▶ Release of defendant pending judicial proceedings
- ▶ Any conditions of release
- ▶ A negotiated plea
- ▶ Defendant's entry into a pre-trial diversion program

Other Provisions

Attorneys for the Commonwealth shall:

- ▶ promptly return a victim's property held for evidentiary purposes unless there is a compelling reason for retaining it
- ▶ provide information on obtaining protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts
- ▶ upon request by a victim or witness, assist in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absences from work

Attorneys for the Commonwealth may request a speedy trial when the victim is less than sixteen (16) years old and the crime is a sexual offense.

Victim Advocates

Each victim advocate shall perform those duties necessary to ensure compliance with the Crime Victims' Bill of Rights [KRS 69.350 (3) and KRS 15.760 (6)(c)].

In all court proceedings, a victim advocate, upon the request of the victim, shall be allowed to accompany the victim during the proceeding to provide moral and emotional support. The victim advocate shall be allowed to confer orally and in writing with the victim in a reasonable manner. However, the victim advocate shall not provide legal advice or legal counsel to the crime victim in violation of KRS 421.570 and 524.130 [KRS 421.575].

Defense Attorneys

The constitutions of the United States and Kentucky require that all persons accused of a crime have a fair trial. The role of the defense attorney is to provide representation for an accused person and protect his or her right to a fair trial. The defendant, or his attorney, has the right to question all witnesses at trial or in other court proceedings (except grand jury). A victim or witness is not required to discuss the crime outside of court unless served with a court order.

Attorney General's Office

The Attorney General, where possible, shall provide:

- ▶ notification to the victim of the defendant's initial appeal, status of the case and the decision of the appellate court, if a defendant seeks appellate review of a conviction and the Commonwealth is represented by the Attorney General
- ▶ technical assistance to law enforcement agencies and attorneys for the Commonwealth if such assistance is requested for establishing a victim assistance program

Special Provisions

For Child Victims of Crime

Speedy Trial and Special Needs

The court shall:

- ▶ set a hearing date within ten (10) days of a motion by the attorney for the Commonwealth, when the victim is less than sixteen (16) years old and the crime is a sexual offense. If the motion is granted, the trial shall be scheduled within ninety (90) days from the hearing date [KRS 421.510]
- ▶ consider and give weight to any adverse impact a delay or continuance may have on the well-being of a child victim or witness
- ▶ implement measures to accommodate the special needs of children which are not unduly burdensome to the rights of the defendant [KRS 26A.140]

Closed Circuit Testimony

The court may, upon request of the attorney for either party and upon a finding of compelling need, grant closed circuit or video taped testimony of the child [KRS 421.350]

Special Advocates

If the court believes that the health, safety, or welfare of a victim who is a minor or is legally incapacitated would not otherwise adequately be protected, the court may appoint a special advocate to represent the interest of the victim and to exercise those rights provided for by KRS 421.500 to 421.575. Communication between the victim and the special advocate shall be privileged [KRS 421.500(2)].

For Victims of Juvenile Crime

Notification of Release

Members of the community who request notification through VINE shall be notified of the release or escape of an incarcerated person from a facility for youthful offenders.

Attending Court Proceedings

Subject to Rule 43.09 of the Rules of Civil Procedure, the court shall permit the victim, the victim's parents or legal guardian, or if emancipated, the victim's spouse, or the legal representative of any of these, to attend all juvenile court proceedings [KRS 610.060 (5)].

Each district court shall, by rule, establish the means of notifying a victim of court proceedings, and assign the person or agency responsible for making the notifications. The failure of a victim or other specified person to receive notice shall not delay the proceedings in the case.

As required by KRS 610.060(6), the court designated person or agency must make an attempt to notify the

above mentioned persons of the time, date and place of all court proceedings.

Access to Records

Unless a specific provision of KRS Chapters 600 to 645 specifies otherwise, all juvenile court records of any nature shall be deemed confidential and shall not be disclosed except to the child, parent, victims or other persons authorized to attend a juvenile court hearing. The victim is entitled to attend the otherwise closed juvenile court proceedings [KRS 610.070].

For Victims of Domestic Violence and Sexual Assault

Protective Orders

Any person who is a victim of domestic violence inflicted by a family member (e.g. spouse, former spouse, parent, child, stepchild, grandparent, grandchild, brother, sister, son- or daughter-in-law, spouse's parent, spouse's grandparent, or a spouse's sibling) or member of an unmarried couple (e.g. couples who are living together or who formerly lived together, or unmarried couples who have a child in common or allegedly have a child in common) and who is a resident of Kentucky or who has fled to Kentucky to escape domestic violence may file a petition for a domestic violence order in the district court in the county of her or his usual or current residence.

The petition is filed on standardized forms provided to the person seeking relief by the circuit court clerk. All petitions requested, completed and signed by persons seeking protection must be accepted, filed and taken immediately to an available judge. No fee may be assessed upon the victim for either the filing of the domestic violence petition or the service of the petition upon the respondent/alleged perpetrator. All Kentucky courts are required to provide twenty-four (24) hour access to emergency protective orders. (For domestic violence generally, please refer to KRS Chapter 403; for sexual assault generally, please refer to KRS Chapter 510).

Victims are now able to receive notification when a protective order is served on a respondent by registering with the VINE Protective Order System (VPO). To register with VPO go to **www.registervpo.com**. The case number located on the protective order is required as well as the Respondent's last name and the county in which the Order was filed.

Notice of Attempt to Purchase Firearms

Legislation enacted by the Kentucky General Assembly in 2002 requires the Justice and Public Safety Cabinet to make a reasonable effort to provide notice to the petitioner (victim who has obtained a domestic violence order) that the respondent (perpetrator) has attempted to purchase a firearm. This legislation only applies to petitioners who:

- ▶ obtain a domestic violence order issued or reissued on or after July 15, 2002
- ▶ obtain a domestic violence order involving a respondent who is prohibited by federal law from possessing a firearm [18 U.S.C. sec. 922(g)(8)]
- ▶ provide the Justice and Public Safety Cabinet or its designated agent with a request for notification

If you have a qualifying domestic violence order that was issued or reissued between July 14, 2000 and July 14, 2002, you may obtain similar notice from a local law enforcement agency in the county where the order was issued or where you reside. Contact your local law enforcement agency for further information.

Rape Victim Examinations

Every hospital in Kentucky that offers emergency services is required to have a physician or sexual assault nurse examiner available on-call twenty-four (24) hours each day for the examination of persons reported to any law enforcement agency to be the victim of a sexual offense. In some communities these examinations may be performed at sexual assault examination facilities such as child advocacy centers or rape crisis centers. Payment for the examination is provided by the Sexual Assault Victims Assistance Fund, which is administered by the Crime Victims Compensation Board, (800) 469-2120 or (502) 573-7986. The victim shall not be charged for the examination.

The Sexual Assault Victims Assistance Fund will also provide reimbursement to any out-of-state hospital, physician or credentialed nurse for sexual assault examinations provided for a victim of a sexual assault that occurred in Kentucky.

For Victims of Domestic Violence, Sexual Assault and Physical Assault

Pretrial Release of Offender

Before pretrial release can be considered for someone arrested for offenses as defined in KRS Chapter 508, (including assault, menacing, wanton endangerment, terroristic threatening, criminal abuse, stalking), or for sexual offenses as defined in KRS Chapter 510, (including rape, sodomy, sexual abuse, sexual misconduct, indecent exposure), or for being in violation of a protective order, the court or agency having authority to make that decision shall review the facts of the arrest and detention and determine whether the person:

- ▶ is a threat to the alleged victim or other family or household member
- ▶ is reasonably likely to appear in court

The court shall make findings, on the record if possible, concerning the determination made in consideration of pretrial release, and may impose conditions of release or bail on the person to protect the alleged victim of domestic violence or abuse and to ensure the appearance of the person at a subsequent court proceeding. The conditions may include:

- ▶ prohibiting the person from threatening to commit or committing acts of domestic violence or abuse against the alleged victim or other family or household member
- ▶ prohibiting the person from harassing, annoying, telephoning, contacting or otherwise communicating with the alleged victim, either directly or indirectly
- ▶ directing the person to vacate or stay away from the home of the alleged victim and to stay away from any other location where the victim is likely to be
- ▶ prohibiting the person from using or possessing a firearm or other weapon specified by the court
- ▶ prohibiting the person from possession or consumption of alcohol or controlled substances, or
- ▶ any combination of the above

If conditions of release are imposed, the court imposing the conditions shall issue a written order for conditional release and immediately distribute a copy of the order to pretrial services. The court shall also provide a copy to the person arrested or charged upon release. Failure to provide the person with a copy does not invalidate the conditions if the arrested or charged person has notice of the conditions.

If conditions of release are imposed without a hearing, the arrested or charged person may request, and upon request the court shall hold, a prompt hearing for the court to review the conditions. Any person who violates any condition of pretrial release orders is guilty of a Class A misdemeanor.

Access to Conditions of Release

The victim (as defined in KRS 421.500) of the defendant's alleged crime, or an individual designated by the victim in writing, shall be entitled to a free certified copy of the defendant's conditions of release, or modified conditions of release, upon request to the clerk of the court which issued the order releasing the defendant. The victim or the victim's designee may personally obtain the document at the clerk's office or may have it delivered by mail.

For Victims of Stalking

As of July 15, 2002, a conviction of stalking acts as an automatic request by the victim, unless the victim requests otherwise, for a restraining order limiting the contact of the defendant with the victim who was stalked. The restraining order may grant relief including:

- ▶ restraining the defendant from entering the residence, property, school or place of employment of the victim, or
- ▶ restraining the defendant from making contact with the victim

A restraining order may be valid for up to 10 years as determined by the court [KRS 508.155].

Crime Victims Compensation

KRS Chapter 346 establishes a program for victim compensation, which is administered through the Crime Victims Compensation Board.

Who Is Eligible

- ▶ The victim of criminally injurious conduct, including a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. sec. 2331, committed outside the United States [KRS 346.020(4)(6)(c)]
- ▶ A surviving spouse, parent, or child of a victim of criminally injurious conduct who died as a direct result of such conduct
- ▶ Any other person dependent for his principal support upon a victim of criminally injurious conduct who died as a direct result of such crime
- ▶ Any person who is legally responsible for the medical expenses or funeral expenses of a victim

Requirements

The victim must qualify under the following Crime Victims Compensation Board's requirements that:

- ▶ the crime must have been reported within 48 hours after the occurrence, unless it is found that delay was justified
- ▶ an application must be filed, either in person or by official claim form by mail, generally not later than five (5) years after the crime

Awards

Awards may include the following:

- ▶ A possible emergency award not to exceed five hundred dollars (\$500), and deducted from any final award
- ▶ Up to one hundred and fifty dollars (\$150) a week in lost earnings or support
- ▶ Medical expenses or other services, including mental health counseling, necessary as a result of the injury upon which the claim is based
- ▶ Replacement of glasses or corrective lenses, provided they were broken or damaged during the crime
- ▶ Funeral and burial expenses, up to five thousand dollars (\$5,000)

Awards may not exceed twenty-five thousand dollars (\$25,000).

Making a Claim

Awards may be denied, reconsidered or reduced if the Crime Victims Compensation Board finds that the victim or claimant has not fully cooperated with appropriate law enforcement agencies [KRS 346.030-185].

Forms are available from law enforcement, hospitals, prosecutors' offices and from the Crime Victims Compensation Board and its Web site, listed below. For more information on what claims can be awarded, please call or write:

Crime Victims Compensation Board
130 Brighton Park Blvd.
Frankfort, KY 40601
(502) 573-7986
(800) 469-2120
<http://cvcb.ky.gov/>

Victim Restitution

Restitution shall be ordered and shall not be subject to suspension or nonimposition. If probation, shock probation, conditional discharge or other alternative sentence is granted, restitution shall be a condition of the sentence. If a person is sentenced to incarceration and paroled, restitution shall be made a condition of parole [KRS 532.032].

Victim Impact Statement

To the Sentencing Judge

The attorney for the Commonwealth is required by law to notify the victim, upon conviction of the defendant, that the victim has the right to submit a written victim impact statement to the probation officer responsible for preparing the pre-sentence investigation report. The impact statement shall be included in the report or submitted to the sentencing judge should such a report be waived by the defendant.

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

The victim impact statement shall be considered by the court prior to any decision on the sentencing or release, including shock probation, of the defendant [KRS 421.520].

To the Parole Board

If a defendant is sentenced to a period of incarceration and his release is subject to the authority of the Parole Board, the victim may submit to the Parole Board a written impact statement, which shall be considered when making a decision on the release of the defendant.

The impact statement may contain, but need not be limited to, a description of the long-term consequences of the crime, including but not necessarily limited to, the physical, psychological and financial harm suffered by the victim, and whether the victim has applied for or received compensation for financial loss [KRS 421.530].

For more information, go to <http://justice.ky.gov/parolebd/>

During Penalty Phase of Trial

In all felony cases during the hearing in which the jury will determine the punishment to be imposed, evidence may be offered by the Commonwealth relevant to sentencing, including the impact of the crime upon the victim, as defined in KRS 421.500, including a description of the nature and extent of any physical, psychological or financial harm suffered by the victim [KRS 532.055 (2)(a)7].

Criminal Status Information

Kentucky Offender Online Lookup (KOOL)

The Department of Corrections maintains a 24-hour access Web site providing information on the status of criminals who are currently incarcerated in a state or private prison, county jail or halfway house.

<http://corrections.ky.gov/kool>

Users will experience a 3-4 minute delay at 9:00am, noon and 6:00pm while the system is being updated. For more information, call (800) 511-1670.

Notification of Release from Custody

VINE System

Victims, law enforcement agencies and the general public have 24- hour access to the VINE (Victim Information and Notification Everyday) system, which provides information on status, location, parole

eligibility, release and housing location of offenders, including some juvenile offenders and violent offenders that have been involuntarily hospitalized.

The Department of Corrections, in cooperation with local and regional jailers and juvenile detention center directors, has developed this computerized notification system. In order to use this service, YOU MUST REGISTER by calling:

(800) 511-1670
<http://corrections.ky.gov/ovs/vine>

You may register online at www.vinelink.com or by calling (800) 511-1670

What Is the Pin Code?

The PIN, or personal identification number, is used by VINE to verify that a successful notification has been made. If you are registered with the VINE system you will receive a call about an inmate's release. At that time, the VINE system will ask you to enter your PIN code into the telephone. Please keep in mind the following:

- ▶ The inmate will NOT know you have registered to be notified when that inmate has been released.
- ▶ VINE gives immediate notification when an inmate is released. Do not be startled if you receive a late night phone call from VINE.
- ▶ Calls will be made every 30 minutes until notification is acknowledged by the registered person.
- ▶ Entering the correct PIN is the only way to stop VINE notification calls.
- ▶ If you are a victim and do not have a telephone, give the phone number of a relative or close friend.
- ▶ DO NOT give a telephone number that reaches a switchboard.

Do not depend only on the VINE System or any other program for your safety. If you feel unsafe you should take precautions as if the inmate were already released.

Registration & Community Notification (Megan's Law)

Victims of Sexual Offenses and Victims of Crimes Against a Minor

Kentucky's Sex Offender Registration Act, sometimes referred to as "Megan's Law," requires certain sex offenders to register with the probation and parole office in their county of residence. The Kentucky State Police have established a Web site, which is accessible to the public, containing information on all offenders who are required to register.

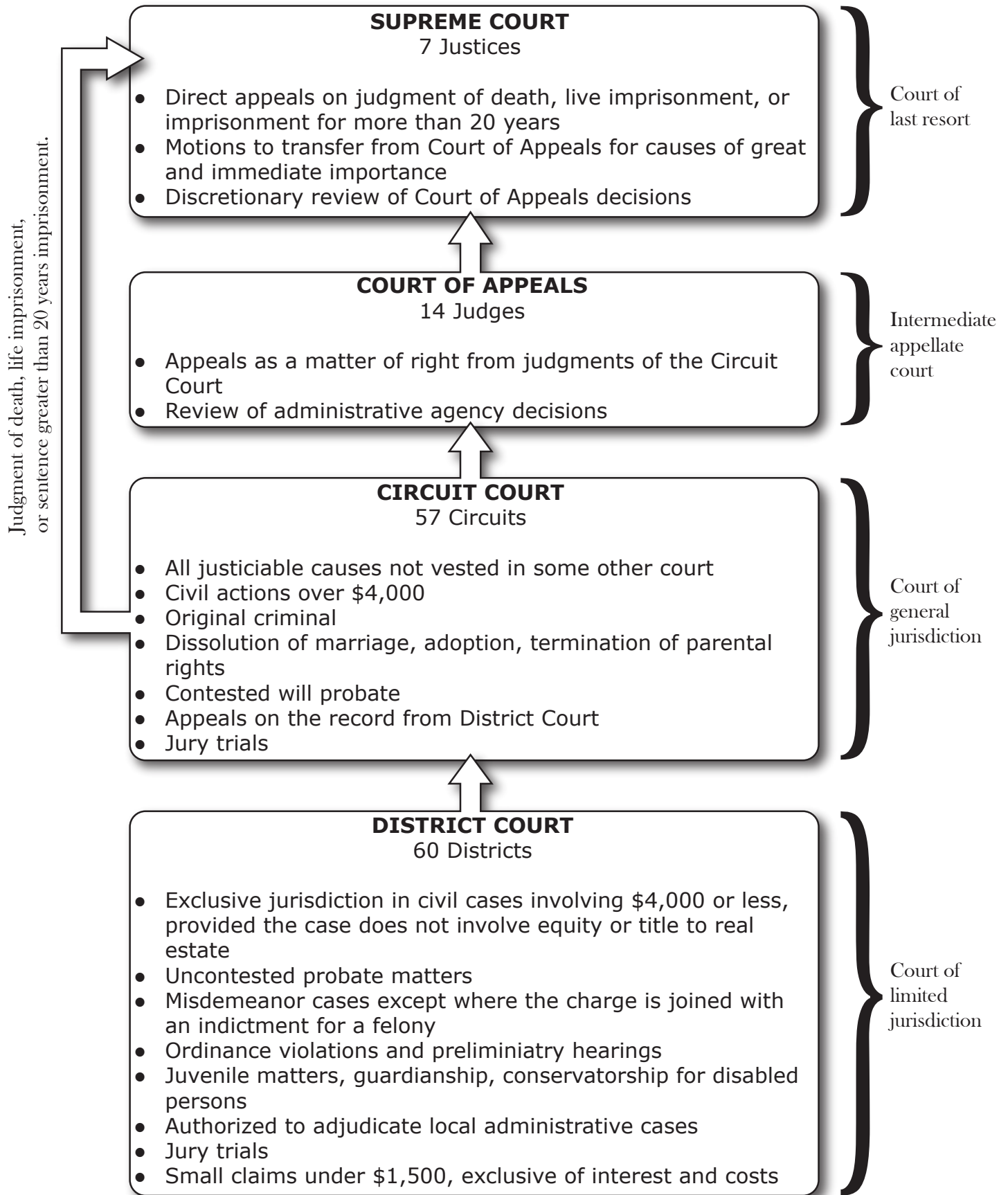
Offender information which may be included on the Web site are the offender's name including any lawful name change together with the previous name, age, race, sex, date of birth, height, weight, hair and eye color, photograph, aliases used, residence, a brief description of the crime or crimes committed, the registrant's conviction, the elements of the offense for which the registrant was convicted, whether the registrant is currently on probation or parole, and whether the registrant is compliant or noncompliant. No information identifying a victim may be included. The Sex Offender Registry web address is <http://kentuckystatepolice.org/sor.htm>

If you do not have access to the Internet, call (877) 994-9961 for a location in your county that offers public access to the Internet.

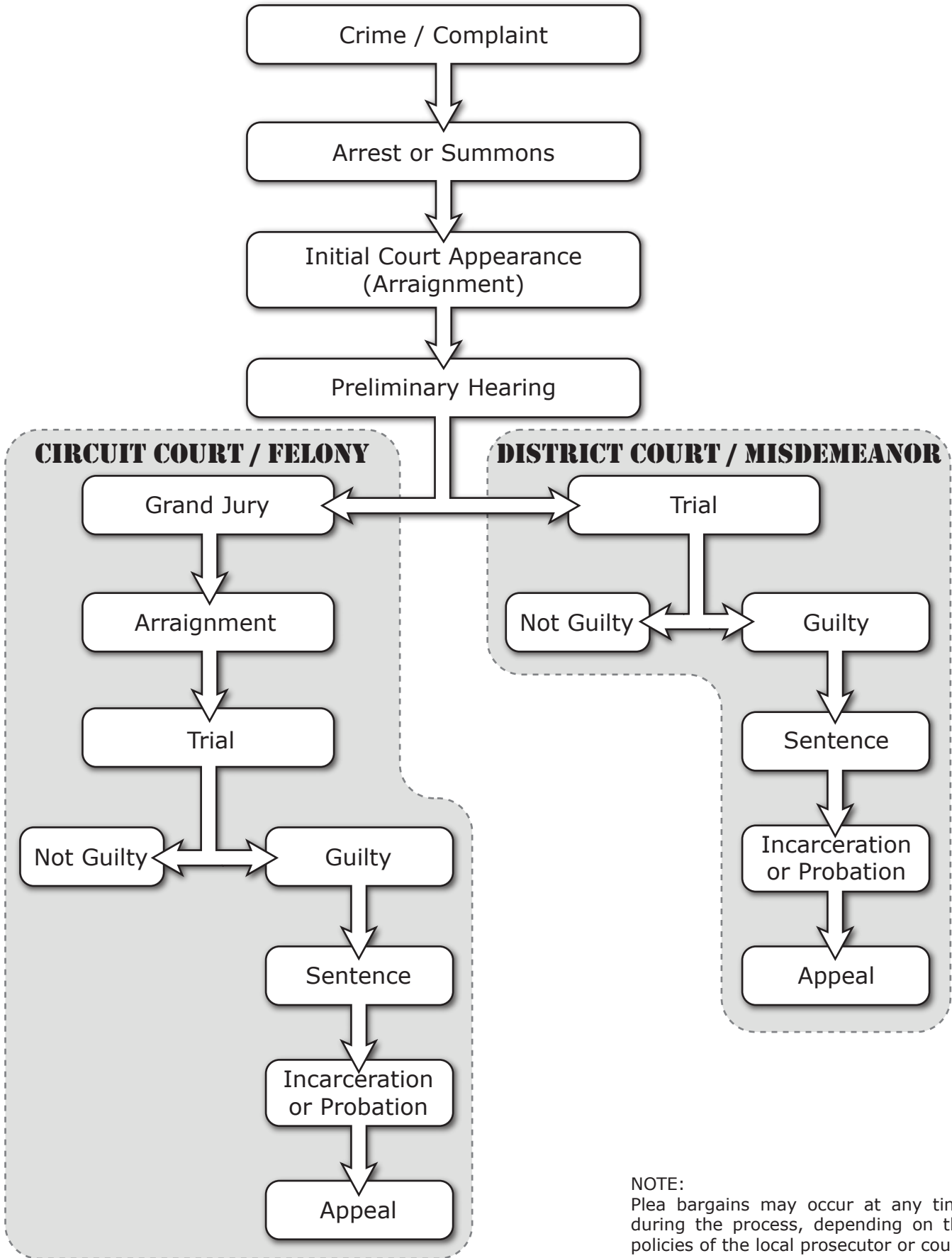
The Kentucky State Police has also established the Kentucky Sex Offender Alert Line. Similar to VINE, the Sex Offender Alert Line allows anybody to register for automated notification when a sex offender moves into an area. To register, call (866) 564-5652 and enter your telephone number and ZIP code.

Once registered, the system will call you whenever a sex offender moves into the ZIP code you have specified and you can then visit the Sex Offender Registry site to obtain information on that sex offender.

Kentucky Court System

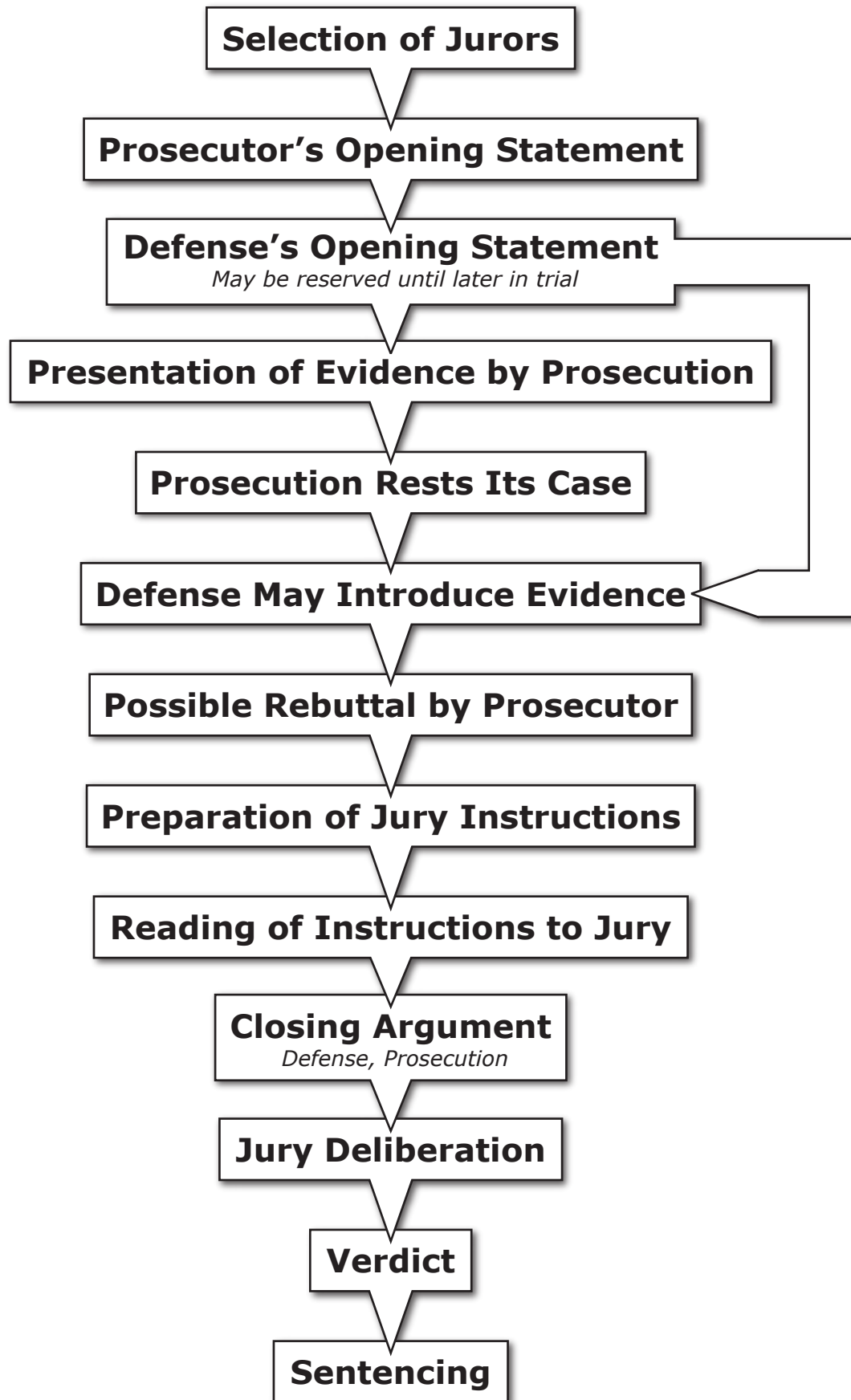


Criminal Justice Steps



NOTE:
Plea bargains may occur at any time during the process, depending on the policies of the local prosecutor or court.

Trial By Jury Procedure



Resources

Office of Victims Advocacy
Office of the Attorney General

(502) 696-5312
(800) 372-2551 — Crime Victims Information Line

ag.ky.gov/victims

Cabinet for Health and Family Services (CHFS)

Child and Adult Abuse Hotline
(502) 564-2136 | (800) 752-6200

Cabinet for Health and Family Services Ombudsman
(502) 564-5497 | (800) 372-2973

Crime Victims Compensation Board
(502) 573-2290
Board of Claims
(800) 469-2120
cvcb.ky.gov

Division of Child Abuse and Domestic Violence
Services, CHFS
(502) 564-9433

Kentucky Bar Association
(502) 564-3795

Kentucky Domestic Violence Association
(502) 209-5382

Kentucky Community Crisis Response Board
(502) 607-5781
kccrb.ky.gov

Kentucky Parole Board
(502) 564-3620 | (800)-221-5991
justice.ky.gov/parolebd

Kentucky Association of Sexual Assault Programs
(KASAP)
(502) 226-2704

Kentucky MADD
(502) 223-4930 | (800) 944-6233

Kentucky Offender Online Lookup (KOOL)
corrections.ky.gov/kool.htm

Kentucky Sex Offender Alert Line
(866) 564-5652

Kentucky Sex Offender Registry
(866) 994-9961
www.kentuckystatepolice.org/sor.htm

Kentuckians Voice for Crime Victims
(502) 367-0638

Prevent Child Abuse Kentucky
(859) 225-8879
(800) CHILDREN (800-244-5373)

Sexual Assault Victim Assistance Fund
(502) 573-2290 | (800) 469-2120

Victim / Witness Protection Program
(502) 696-5500

VINE
(502) 564-5061 | (800) 511-1670
www.corrections.ky.gov/ovs/VINE.htm

Local Services

County Attorney _____

Commonwealth's Attorney _____

Victim Advocate _____

Spouse Abuse Shelter _____

Rape Crisis Center _____