

506.160 Minimum service of sentence required if convicted defendant was member of criminal gang acting for the purpose of benefitting, promoting, or furthering the interest of criminal gang.

- (1) If a defendant is alleged by the prosecuting attorney to have been a member of a criminal gang as defined in KRS 506.135, at the time of the commission of the offense, upon conviction of the offense there shall be a separate proceeding from that proceeding which resulted in the defendant's conviction if the defendant was convicted of:
 - (a) Assault in the fourth degree under KRS 508.030;
 - (b) Menacing under KRS 508.050;
 - (c) Wanton endangerment in the second degree under KRS 508.070;
 - (d) Terroristic threatening in the third degree under KRS 508.080;
 - (e) Stalking in the second degree under KRS 508.150;
 - (f) Unlawful imprisonment in the second degree under KRS 509.030;
 - (g) Criminal coercion under KRS 509.080;
 - (h) Criminal mischief in the second degree under KRS 512.030;
 - (i) Criminal mischief in the third degree under KRS 512.040;
 - (j) Obstructing governmental operations under KRS 519.020;
 - (k) Resisting arrest under KRS 520.090;
 - (l) Riot in the second degree under KRS 525.030;
 - (m) Inciting to riot under KRS 525.040;
 - (n) Harassment under KRS 525.070;
 - (o) Harassing communications under KRS 525.080;
 - (p) The misdemeanor offense of carrying a concealed deadly weapon in violation of KRS 527.020; or
 - (q) Possession of a handgun by a minor as a first offense under KRS 527.100.
- (2) The proceeding described in subsection (1) of this section shall be conducted before the court sitting with the jury that found the defendant guilty of the offense unless the court for good cause discharges that jury and impanels a new jury for that purpose. If the jury determines beyond a reasonable doubt that the defendant is or was a member of a criminal gang, acting for the purpose of benefitting, promoting, or furthering the interest of a criminal gang at the time he or she committed the offense, he or she shall not be released for a minimum of seventy-six (76) to ninety (90) days of the sentence imposed if the offense he or she is convicted of is classified as a Class B misdemeanor, or for a minimum of three hundred eleven (311) to three hundred sixty-five (365) days if the offense he or she is convicted of is classified as a Class A misdemeanor.
- (3) This section shall not apply to a juvenile unless he or she has been transferred to Circuit Court as a youthful offender pursuant to KRS 640.010 and has on at least one (1) prior separate occasion been adjudicated a public offender for a felony offense.

Effective: April 26, 2018

History: Created 2018 Ky. Acts ch. 202, sec. 5, effective April 26, 2018.