

**532.055 Verdicts and sentencing by jury in felony cases.**

- (1) In all felony cases, the jury in its initial verdict will make a determination of not guilty, guilty, guilty but mentally ill, or not guilty by virtue of insanity, and no more.
- (2) Upon return of a verdict of guilty or guilty but mentally ill against a defendant, the court shall conduct a sentencing hearing before the jury, if such case was tried before a jury. In the hearing the jury will determine the punishment to be imposed within the range provided elsewhere by law. The jury shall recommend whether the sentences shall be served concurrently or consecutively.
  - (a) Evidence may be offered by the Commonwealth relevant to sentencing including:
    1. Minimum parole eligibility, prior convictions of the defendant, both felony and misdemeanor;
    2. The nature of prior offenses for which he was convicted;
    3. The date of the commission, date of sentencing, and date of release from confinement or supervision from all prior offenses;
    4. The maximum expiration of sentence as determined by the division of probation and parole for all such current and prior offenses;
    5. The defendant's status if on probation, parole, postincarceration supervision, conditional discharge, or any other form of legal release;
    6. Juvenile court records of adjudications of guilt of a child for an offense that would be a felony if committed by an adult. Subject to the Kentucky Rules of Evidence, these records shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial and may be used during the sentencing phase of a criminal trial; however, the fact that a juvenile has been adjudicated delinquent of an offense that would be a felony if the child had been an adult shall not be used in finding the child to be a persistent felony offender based upon that adjudication. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the federal Social Security Act is also prohibited; and
    7. The impact of the crime upon the victim or victims, 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 or victims;
  - (b) The defendant may introduce evidence in mitigation or in support of leniency; and
  - (c) Upon conclusion of the proof, the court shall instruct the jury on the range of punishment and counsel for the defendant may present arguments followed by the counsel for the Commonwealth. The jury shall then retire and recommend a sentence for the defendant.

- (3) All hearings held pursuant to this section shall be combined with any hearing provided for by KRS 532.080.
- (4) In the event that the jury is unable to agree as to the sentence or any portion thereof and so reports to the judge, the judge shall impose the sentence within the range provided elsewhere by law.

**Effective:** June 8, 2011

**History:** Amended 2011 Ky. Acts ch. 2, sec. 95, effective June 8, 2011. -- Amended 2008 Ky. Acts ch. 60, sec. 2, effective July 15, 2008. -- Amended 1998 Ky. Acts ch. 606, sec. 111, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 358, sec. 8, effective July 15, 1997. -- Created 1986 Ky. Acts ch. 358, sec. 2, effective July 15, 1986.

**Legislative Research Commission Note (7/15/96).** Under 1996 Ky. Acts ch. 358, sec. 67(1), the amendment of this statute by Section 8 of that Act becomes effective July 15, 1997.

**Legislative Research Commission Note (11/19/91).** Pursuant to KRS 7.136(1), the Reviser of Statutes has made a technical correction to correct a manifest clerical or typographical error in subsection (2) of this statute. The text now shown as "...before a jury. In the hearing the jury..." appeared in 1986 Acts ch. 358, sec. 2, as "...before a jury in the hearing the jury..."