

1 AN ACT relating to sex offenses.

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

3 ➔Section 1. KRS 510.050 is amended to read as follows:

4 (1) A person is guilty of rape in the second degree when:

5 (a) Being eighteen (18) years old or more, he ***or she*** engages in sexual intercourse  
6 with another person less than fourteen (14) years old; or

7 (b) He ***or she*** engages in sexual intercourse with another person who is mentally  
8 incapacitated ***or who is incapable of consent because he or she is an***  
9 ***individual with an intellectual disability.***

10 (2) Rape in the second degree is a Class C felony.

11 ➔Section 2. KRS 510.060 is amended to read as follows:

12 (1) A person is guilty of rape in the third degree when:

13 (a) ~~[He or she engages in sexual intercourse with another person who is incapable~~  
14 ~~of consent because he or she is an individual with an intellectual disability;~~

15 ~~(b) ]~~Being twenty-one (21) years old or more, he or she engages in sexual  
16 intercourse with another person less than sixteen (16) years old;

17 ~~(b)~~~~(c)~~ Being twenty-one (21) years old or more, he or she engages in sexual  
18 intercourse with another person less than eighteen (18) years old and for  
19 whom he or she provides a foster family home as defined in KRS 600.020;

20 ~~(c)~~~~(d)~~ Being a person in a position of authority or position of special trust, as  
21 defined in KRS 532.045, he or she engages in sexual intercourse with a minor  
22 under eighteen (18) years old with whom he or she comes into contact as a  
23 result of that position; or

24 ~~(d)~~~~(e)~~ Being a jailer, or an employee, contractor, vendor, or volunteer of the  
25 Department of Corrections, Department of Juvenile Justice, or a detention  
26 facility as defined in KRS 520.010, or of an entity under contract with either  
27 department or a detention facility for the custody, supervision, evaluation, or

1 treatment of offenders, he or she subjects a person who he or she knows is  
 2 incarcerated, supervised, evaluated, or treated by the Department of  
 3 Corrections, Department of Juvenile Justice, detention facility, or contracting  
 4 entity, to sexual intercourse.

5 (2) Rape in the third degree is a Class D felony.

6 ➔Section 3. KRS 510.080 is amended to read as follows:

7 (1) A person is guilty of sodomy in the second degree when:

8 (a) Being eighteen (18) years old or more, he or she engages in deviate sexual  
 9 intercourse with another person less than fourteen (14) years old; or

10 (b) He or she engages in deviate sexual intercourse with another person who is  
 11 mentally incapacitated or who is incapable of consent because he or she is  
 12 an individual with an intellectual disability.

13 (2) Sodomy in the second degree is a Class C felony.

14 ➔Section 4. KRS 510.090 is amended to read as follows:

15 (1) A person is guilty of sodomy in the third degree when:

16 (a) ~~[He or she engages in deviate sexual intercourse with another person who is~~  
 17 ~~incapable of consent because he or she is an individual with an intellectual~~  
 18 ~~disability;~~

19 ~~(b)~~ Being twenty-one (21) years old or more, he or she engages in deviate sexual  
 20 intercourse with another person less than sixteen (16) years old; or

21 ~~(b)~~~~(c)~~ Being twenty-one (21) years old or more, he or she engages in deviate  
 22 sexual intercourse with another person less than eighteen (18) years old and  
 23 for whom he or she provides a foster family home as defined in KRS 600.020;

24 ~~(c)~~~~(d)~~ Being a person in a position of authority or position of special trust, as  
 25 defined in KRS 532.045, he or she engages in deviate sexual intercourse with  
 26 a minor less than eighteen (18) years old with whom he or she comes into  
 27 contact as a result of that position; or

1        ~~(d)~~~~(e)~~     Being a jailer, or an employee, contractor, vendor, or volunteer of the  
 2                    Department of Corrections, Department of Juvenile Justice, or a detention  
 3                    facility as defined in KRS 520.010, or of an entity under contract with either  
 4                    department or a detention facility for the custody, supervision, evaluation, or  
 5                    treatment of offenders, he or she subjects a person who he or she knows is  
 6                    incarcerated, supervised, evaluated, or treated by the Department of  
 7                    Corrections, Department of Juvenile Justice, detention facility, or contracting  
 8                    entity, to deviate sexual intercourse.

9        (2) Sodomy in the third degree is a Class D felony.

10        ➔Section 5. KRS 510.110 is amended to read as follows:

11        (1) A person is guilty of sexual abuse in the first degree when:

12            (a) He or she subjects another person to sexual contact by forcible compulsion; or

13            (b) He or she subjects another person to sexual contact who is incapable of  
 14                    consent because he or she:

15                    1. Is physically helpless;

16                    2. Is less than twelve (12) years old;~~or~~

17                    3. Is mentally incapacitated; or

18                    **4. Is an individual with an intellectual disability; or**

19            (c) Being twenty-one (21) years old or more, he or she:

20                    1. Subjects another person who is less than sixteen (16) years old to sexual  
 21                    contact;

22                    2. Engages in masturbation in the presence of another person who is less  
 23                    than sixteen (16) years old and knows or has reason to know the other  
 24                    person is present; or

25                    3. Engages in masturbation while using the Internet, telephone, or other  
 26                    electronic communication device while communicating with a minor  
 27                    who the person knows is less than sixteen (16) years old, and the minor

1                   can see or hear the person masturbate; or

2           (d) Being a person in a position of authority or position of special trust, as defined  
3           in KRS 532.045, he or she, regardless of his or her age, subjects a minor who  
4           is less than eighteen (18) years old, with whom he or she comes into contact  
5           as a result of that position, to sexual contact or engages in masturbation in the  
6           presence of the minor and knows or has reason to know the minor is present  
7           or engages in masturbation while using the Internet, telephone, or other  
8           electronic communication device while communicating with a minor who the  
9           person knows is less than sixteen (16) years old, and the minor can see or hear  
10          the person masturbate.

11   (2) Sexual abuse in the first degree is a Class D felony, unless the victim is less than  
12       twelve (12) years old, in which case the offense shall be a Class C felony.

13       ➔Section 6. KRS 510.120 is amended to read as follows:

14   (1) A person is guilty of sexual abuse in the second degree when:

15       (a) ~~[He or she subjects another person to sexual contact who is incapable of~~  
16           ~~consent because he or she is an individual with an intellectual disability;~~

17       ~~(b)~~—]He or she is at least eighteen (18) years old but less than twenty-one (21)  
18           years old and subjects another person who is less than sixteen (16) years old to  
19           sexual contact; or

20       **(b)**~~(c)~~ Being a jailer, or an employee, contractor, vendor, or volunteer of the  
21           Department of Corrections, Department of Juvenile Justice, or a detention  
22           facility as defined in KRS 520.010, or of an entity under contract with either  
23           department or a detention facility for the custody, supervision, evaluation, or  
24           treatment of offenders, he or she subjects a person who is at least eighteen  
25           (18) years old and who he or she knows is incarcerated, supervised, evaluated,  
26           or treated by the Department of Corrections, Department of Juvenile Justice,  
27           detention facility, or contracting entity, to sexual contact.

- 1 (2) In any prosecution under subsection (1)(b) of this section, it is a defense that:
  - 2 (a) The other person's lack of consent was due solely to incapacity to consent by
  - 3 reason of being less than sixteen (16) years old; and
  - 4 (b) The other person was at least fourteen (14) years old; and
  - 5 (c) The actor was less than five (5) years older than the other person.
- 6 (3) Sexual abuse in the second degree is a Class A misdemeanor.