

CHAPTER 282**(SB 227)**

AN ACT relating to sexual offenses.

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

Section 1. KRS 510.060 is amended to read as follows:

- (1) A person is guilty of rape in the third degree when:
 - (a) He engages in sexual intercourse with another person who is incapable of consent because he is mentally retarded or mentally incapacitated;~~;~~~~or~~
 - (b) Being twenty-one (21) years old or more, he engages in sexual intercourse with another person less than sixteen (16) years old; *or*
 - (c) ***Being twenty-one (21) years old or more, he engages in sexual intercourse with another person less than eighteen (18) years old and for whom he provides a foster family home as defined in KRS 600.020.***
- (2) Rape in the third degree is a Class D felony.

Section 2. KRS 510.090 is amended to read as follows:

- (1) A person is guilty of sodomy in the third degree when:
 - (a) He engages in deviate sexual intercourse with another person who is incapable of consent because he is mentally retarded or mentally incapacitated;~~;~~~~or~~
 - (b) Being twenty-one (21) years old or more, he engages in deviate sexual intercourse with another person less than sixteen (16) years old; *or*
 - (c) ***Being twenty-one (21) years old or more, he engages in deviate sexual intercourse with another person less than eighteen (18) years old and for whom he provides a foster family home as defined in KRS 600.020.***
- (2) Sodomy in the third degree is a Class D felony.

Section 3. KRS 510.120 is amended to read as follows:

- (1) A person is guilty of sexual abuse in the second degree when:
 - (a) He subjects another person to sexual contact who is incapable of consent because he is mentally retarded or mentally incapacitated;
 - (b) He subjects another person who is less than fourteen (14) years old to sexual contact;~~;~~~~or~~
 - (c) Being an employee, contractor, vendor, or volunteer of the Department of Corrections, or a detention facility as defined in KRS 520.010, or of an entity under contract with either the department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he subjects an offender who is incarcerated, supervised, evaluated, or treated by the Department of Corrections, the detention facility, or the contracting entity, to sexual contact. In any prosecution under this paragraph, the defendant may prove in exculpation that, at the time he engaged in the conduct constituting the offense, he and the offender were married to each other; *or*

- (d) *Being twenty-one (21) years old or more, he subjects another person to sexual contact who is less than eighteen (18) years old and for whom he provides a foster family home as defined in KRS 600.020.*
- (2) Sexual abuse in the second degree is a Class A misdemeanor.

Approved April 9, 2002