

CHAPTER 90**(SB 66)**

AN ACT relating to youth camps.

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

➔Section 1. KRS 194A.380 is amended to read as follows:

As used in KRS 194A.380 to 194A.383:

- (1) "Criminal offense against a minor" means a conviction or a plea of guilty to any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:
 - (a) Kidnapping, as in KRS 509.040, except by a parent;
 - (b) Unlawful imprisonment, as in KRS 509.020, except by a parent;
 - (c) Sexual misconduct as in KRS 510.140;
 - (d) Use of a minor in a sexual performance, as in KRS 531.310;
 - (e) Promoting a sexual performance of a minor, as in KRS 531.320;
 - (f) Possession or viewing matter portraying a sexual performance by a minor, as in KRS 531.335;
 - (g) Distribution of matter portraying a sexual performance by a minor, as in KRS 531.340;
 - (h) Promoting the sale of material portraying a sexual performance by a minor, as in KRS 531.350;
 - (i) Advertising material portraying a sexual performance by a minor, as in KRS 531.360;
 - (j) Using minors to distribute material portraying a sexual performance by a minor, as in KRS 531.370;
 - (k) Human trafficking involving commercial sexual activity, as in KRS 529.100;
 - (l) Promoting prostitution, as in KRS 529.040, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
 - (m) Unlawful transaction with a minor in the first degree, as in KRS 530.064(1)(a);
 - (n) Any attempt to commit any of the offenses described in paragraphs (a) to (m) of this subsection; or
 - (o) Solicitation to commit any of the offenses described in paragraphs (a) to (m) of this subsection;
- (2) ***"Local government" means a city, county, consolidated local government, urban-county government, unified local government, or charter county government;***
- (3) ***"Local government youth day camp" means a camp operated by a local government for all or part of a day, whether free or for a fee, for five (5) or more children under eighteen (18) years of age outside the presence of their parent or guardian for recreational or educational purposes for four (4) or more consecutive hours per day during school vacation periods, school breaks, or school cancellations;***
- (4) "Sex crime" means a conviction or a plea of guilty to any of the following offenses:
 - (a) Rape in the first degree as in KRS 510.040;
 - (b) Rape in the second degree as in KRS 510.050;
 - (c) Rape in the third degree as in KRS 510.060;
 - (d) Sodomy in the first degree as in KRS 510.070;
 - (e) Sodomy in the second degree as in KRS 510.080;
 - (f) Sodomy in the third degree as in KRS 510.090;
 - (g) Sodomy in the fourth degree as in KRS 510.100;
 - (h) Sexual abuse in the first degree as in KRS 510.110;

- (i) Sexual abuse in the second degree as in KRS 510.120;
 - (j) Sexual abuse in the third degree as in KRS 510.130;
 - (k) Indecent exposure in the first degree as in KRS 510.148;
 - (l) Indecent exposure in the second degree as in KRS 510.150;
 - (m) Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities as in KRS 510.155; or
 - (n) Incest as in KRS 530.020;
- (5) *"Staff member" means:*
- (a) *An individual who is employed by a youth camp or camp or a local government youth day camp for compensation;*
 - (b) *A contract employee or a self-employed individual whose employment directly involves the care or supervision of children or unsupervised access to children placed with a youth camp or camp or a local government youth day camp; or*
 - (c) *A volunteer or intern whose activities on behalf of a youth camp or camp or a local government youth day camp directly involves the care or supervision of children or unsupervised access to children placed with a youth camp or camp or a local government youth day camp;*
- (6)~~(3)~~ "Violent offender" means any person who has been convicted of or who has entered a plea of guilty to the commission of a capital offense, Class A felony, Class B felony involving the death of the victim or serious physical injury to the victim, or rape in the first degree, or sodomy in the first degree; and
- (7)~~(4)~~ "Youth camp" or "camp" means:
- (a) Any camp required pursuant to KRS 211.180 to obtain a permit to operate; and
 - (b) Any program offered, whether free or for a fee, for recreational, educational, sports training, or vacation purposes to children under eighteen (18) years of age that a child attends outside the presence of his or her parent or legal guardian.
- ➔Section 2. KRS 194A.382 is amended to read as follows:
- (1) A youth camp *or camp or a local government youth day camp* that receives public funds shall not employ, contract, or utilize as a volunteer, in any position, any *staff member*~~person~~ who has been convicted of or who has entered a plea of guilty to a criminal offense against a minor or a sex crime, who is a violent offender, or who has been found by the Cabinet for Health and Family Services or a court to have abused or neglected a child.
 - (2) Prior to employing, contracting with, or allowing volunteer work, each youth camp *or camp or a local government youth day camp* that receives public funds shall obtain from the Justice and Public Safety Cabinet a national and state criminal background check of the applicant, contractor, or volunteer *who is or intends to become a staff member* prior to the individual's presence at the camp or involvement in any program of the camp.
 - (3) Prior to employing, contracting with, or allowing volunteer work, each youth camp *or camp or a local government youth day camp* that receives public funds shall require *an applicant*~~applicant~~ to obtain a letter from the Cabinet for Health and Family Services stating the individual is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services of the applicant, contractor, or volunteer *who intends to become a staff member* prior to the individual's presence at the camp or involvement in any program of the camp.
 - (4) Each application form provided by a youth camp *or camp or a local government youth day camp* that receives public funds to an applicant or volunteer *who intends to become a staff member* shall in a prominent place and legible font conspicuously state the following: "STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL BACKGROUND CHECK AND A LETTER FROM THE CABINET FOR HEALTH AND FAMILY SERVICES STATING THE *STAFF MEMBER*~~EMPLOYEE~~ IS CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS AS A CONDITION OF EMPLOYMENT OR INVOLVEMENT IN THIS PROGRAM."

- (5) Any request for records under this section shall be on a form approved by the Justice and Public Safety Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.
- (6) This section shall apply to all applicants and volunteers in a position which involves supervisory or disciplinary power over a minor, *who intend to become staff members*.
- (7) This section shall not be construed to prohibit an exempted organization from requiring its employees, contractors, or volunteers to submit to a background check. A youth ~~camp~~ *camp* or *camp or a local government youth day camp* that ~~does not~~ receive public funds may require its employees, contractor, or volunteers to submit to a criminal background check and to have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the individual has no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.
- (8) This section shall not be construed to require a youth camp *or camp or a local government youth day camp* that receives public funds to employ, contract with, or allow volunteering by, an individual solely on the basis of an acceptable criminal background check.
- (9) This section shall not limit the ability of a youth camp *or camp or a local government youth day camp* that receives public funds to establish a more stringent background check process for its employees, contractors, or volunteers regarding other criminal offenses which, in the discretion of the youth camp *or camp or a local government youth day camp* that receives public funds, would disqualify the individual from involvement with the youth camp *or camp or a local government youth day camp*.
- (10) The form for requesting a letter, required by this section, stating *a staff member* ~~[an employee]~~ is clear to hire based on a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services shall be made available on the Cabinet for Health and Family Services Web site.

➔Section 3. KRS 194A.383 is amended to read as follows:

- (1) Failure to comply with KRS 194A.382 will result in immediate suspension of the entity's permit until compliance is obtained.
- (2) If any employee, contractor, or volunteer *who is a staff member* is discovered to be a violent offender or has been convicted of a sex crime or a criminal offense against a minor, or has been found by the Cabinet for Health and Family Services to have abused or neglected a child, and if he or she has waived the right to appeal a substantiated finding of child abuse or neglect or if the substantiated incident was upheld upon appeal, he or she shall be immediately terminated from participation with the program and removed from the property.
- (3) Any person who owns or operates a youth camp *or camp or a local government youth day camp* that receives public funds and who knowingly allows an individual *who is a staff member* to serve or continue to serve as an employee, contractor, or volunteer despite a conviction or offense specified in this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) *A local government youth day camp shall not be required:*
 - (a) *To be licensed as a child care center as defined in KRS 199.894; or*
 - (b) *To obtain a permit under KRS 211.180.*
- (2) *A local government youth day camp shall comply with background checks required under Section 2 of this Act.*

Signed by Governor March 23, 2021.