

35.678 Definitions for KRS 35.678 to 35.690.

As used in KRS 35.678 to 35.690:

- (1) "Act of prostitution" means a sexual act or sexual contact as defined in subsection (12) or (13) of this section, respectively, on account of which anything of value is given to, or received by, any person;
- (2) "Bodily harm" means any offensive touching of another, however slight, including any nonconsensual sexual act or nonconsensual sexual contact;
- (3) "Broadcast" means delivering to the actual or constructive possession of another, including transmission by electronic means;
- (4) (a) "Consent" means a freely given agreement to the conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue shall not constitute consent.
(b) A sleeping, unconscious, or incompetent person cannot consent. A person cannot consent to force causing or likely causing death or grievous bodily harm or to being rendered unconscious. A person cannot consent while under threat or fear or under the circumstances described in KRS 35.681(2)(a)3. and 4..
(c) Lack of consent may be inferred based on the circumstances of the offense. All the surrounding circumstances are to be considered in determining whether a person gave consent, or whether a person did not resist or ceased to resist only because of another person's actions;
- (5) "Course of conduct" means:
 - (a) A repeated maintenance of visual or physical proximity to a specific person; or
 - (b) A repeated conveyance of verbal threat, written threats, or threats implied by conduct, or a combination of these threats, directed at or towards a specific person;
- (6) "Force" means:
 - (a) The use of a weapon;
 - (b) The use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person; or
 - (c) Inflicting physical harm sufficient to coerce or compel submission by the victim;
- (7) "Grievous bodily harm" means serious bodily injury. It includes fractures or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose;
- (8) "Immediate family," in the case of a specific person, means a spouse, parent, child,

or sibling of the person, or any other family member, relative, or intimate partner of the person who regularly resides in the household of the person or who within the six (6) months preceding the commencement of the course of conduct regularly resided in the household of the person;

- (9) "Indecent manner" means conduct that amounts to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations;
- (10) "Private area" means the naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple;
- (11) "Repeated," with respect to conduct, means two (2) or more occasions of that conduct;
- (12) "Sexual act" means:
 - (a) Contact between the penis and the vulva or anus or mouth, and, for purposes of this paragraph, contact involving the penis occurs upon penetration, however slight; or
 - (b) The penetration, however slight, of the vulva or anus or mouth of another by any part of the body or by any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person;
- (13) "Sexual contact" means:
 - (a) Touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, or degrade any person; or
 - (b) Any touching, or causing another person to touch, either directly or through the clothing, any body parts of another person, if done with an intent to arouse or gratify the sexual desire of any person. Touching may be accomplished by any part of the body;
- (14) "Threatening or placing that other person in fear" means a communication or action that is of sufficient consequences to cause a reasonable fear that noncompliance will result in the victim or another person being subjected to the wrongful action contemplated by the communication or action;
- (15) "Under circumstances in which that other person has a reasonable expectation of privacy" means:
 - (a) Circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of that person was being captured; or
 - (b) Circumstances in which a reasonable person would believe that a private area of that person would not be visible to the public; and
- (16) "Unlawful force" means an act of force done without legal justification or excuse.

Effective: July 15, 2016

History: Created 2016 Ky. Acts ch. 75, sec. 5, effective July 15, 2016.