

AN ACT relating to crimes and punishments.

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

➔Section 1. KRS 510.040 is amended to read as follows:

- (1) A person is guilty of rape in the first degree when:
 - (a) He ***or she*** engages in sexual intercourse with another person by forcible compulsion; or
 - (b) He ***or she*** engages in sexual intercourse with another person who is incapable of consent because he ***or she***:
 1. Is physically helpless; or
 2. Is less than twelve (12) years old.
- (2) Rape in the first degree is a Class B felony unless the victim is under twelve (12) years old or receives a serious physical injury in which case it is a Class A felony.

➔Section 2. KRS 510.050 is amended to read as follows:

- (1) A person is guilty of rape in the second degree when:
 - (a) Being eighteen (18) years old or more, he ***or she*** engages in sexual intercourse with another person less than fourteen (14) years old; or
 - (b) He ***or she*** engages in sexual intercourse with another person who is mentally incapacitated.
- (2) Rape in the second degree is a Class C felony.

➔Section 3. KRS 510.070 is amended to read as follows:

- (1) A person is guilty of sodomy in the first degree when:
 - (a) He ***or she*** engages in deviate sexual intercourse with another person by forcible compulsion; or
 - (b) He ***or she*** engages in deviate sexual intercourse with another person who is incapable of consent because he ***or she***:
 1. Is physically helpless; or
 2. Is less than twelve (12) years old.

- (2) Sodomy in the first degree is a Class B felony unless the victim is under twelve (12) years old or receives a serious physical injury in which case it is a Class A felony.

➔Section 4. KRS 510.080 is amended to read as follows:

- (1) A person is guilty of sodomy in the second degree when:
- (a) Being eighteen (18) years old or more, he or she engages in deviate sexual intercourse with another person less than fourteen (14) years old; or
 - (b) He or she engages in deviate sexual intercourse with another person who is mentally incapacitated.

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

➔Section 5. KRS 510.100 is amended to read as follows:

- (1) A person is guilty of sodomy in the fourth degree when he or she engages in deviate sexual intercourse with another person of the same sex.
- (2) Notwithstanding the provisions of KRS 510.020, consent of the other person shall not be a defense under this section, nor shall lack of consent of the other person be an element of this offense.
- (3) Sodomy in the fourth degree is a Class A misdemeanor.