

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2020 REGULAR SESSION
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Amend printed copy of **SB 64/GA**

On page 10, after line 2, insert the following:

"➔Section 2. KRS 500.050 is amended to read as follows:

- (1) Except as otherwise expressly provided, the prosecution of a felony is not subject to a period of limitation and may be commenced at any time.
- (2) Except as otherwise expressly provided, the prosecution of an offense other than a felony must be commenced within one (1) year after it is committed.
- (3) **(a)** For a misdemeanor sex offense~~[under KRS Chapter 510]~~ when the victim is a minor~~[under the age of eighteen (18)]~~ at the time of the offense, the prosecution of the offense shall be commenced within ten (10)~~[five (5)]~~ years after the victim attains the age of eighteen (18) years.

(b) As used in paragraph (a) of this subsection, "misdemeanor sex offense" means a misdemeanor offense in:

- 1. KRS Chapter 510;**
- 2. KRS Chapter 531 involving a minor or depiction of a minor; or**
- 3. KRS 506.010 or 506.030 for attempt to commit or solicitation to commit;**

a. Any of the offenses described in subparagraphs 1. and 2. of this paragraph;

b. Promoting prostitution under KRS 529.040 when the defendant

Amendment No. _____

Rep. Rep. Lynn Bechler

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

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advances or profits from the prostitution of a minor;

c. Human trafficking involving commercial sexual activity under KRS 529.100;

d. Promoting human trafficking involving commercial sexual activity under KRS 529.110; or

e. Unlawful transaction with a minor in the first degree under KRS 530.064(1)(a).

(4) For purposes of this section, an offense is committed either when every element occurs, or if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated.

➔Section 3. KRS 413.249 is amended to read as follows:

(1) As used in this section:

(a) "Childhood sexual assault or abuse" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a misdemeanor or felony in:

1. KRS Chapter 510;

2. KRS 529.040 when the defendant advances or profits from the prostitution of a minor;~~in KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110;~~

3. KRS 529.100 when~~where~~ the offense involves commercial sexual activity;~~;~~

4. KRS 529.110 when~~where~~ the offense involves commercial sexual activity;~~;~~

5. KRS 530.020 or~~;~~ 530.064(1)(a); ~~531.310, or 531.320~~

6. KRS Chapter 531 involving a minor or depiction of a minor; or

7. KRS 506.010 or 506.030 for attempt to commit or solicitation to commit any of the offenses described in subparagraphs 1. to 6. of this paragraph.

No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual assault or abuse; and

(b) ~~["Childhood sexual abuse" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a misdemeanor in KRS 510.120, KRS 510.130, KRS 510.140, or KRS 510.150. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual abuse;~~

~~(c) "Child" means a person less than eighteen (18) years old; and~~

~~(d) "Injury or illness" means either a physical or psychological injury or illness.~~

(2) A civil action for recovery of damages for injury or illness suffered as a result of childhood sexual assault or abuse~~[or childhood sexual assault]~~ shall be brought before whichever of the following periods last expires:

(a) Within ten (10) years of the commission of the act or the last of a series of acts by the same perpetrator;

(b) Within ten (10) years of the date the victim knew, or should have known, of the act;

(c) Within ten (10) years after the victim attains the age of eighteen (18) years; or

(d) Within ten (10) years of the conviction of a civil defendant for an offense included in the definition of childhood sexual assault or abuse~~[or childhood sexual assault]~~.

(3) If a complaint is filed alleging that an act of childhood sexual assault or~~[childhood sexual]~~ abuse occurred more than ten (10) years prior to the date that the action is commenced, the complaint shall be accompanied by a motion to seal the record and the complaint shall immediately be sealed by the clerk of the court. The complaint shall remain sealed until:

(a) The court rules upon the motion to seal;

(b) Any motion to dismiss under CR 12.02 is ruled upon, and if the complaint is

dismissed, the complaint and any related papers or pleadings shall remain sealed unless opened by a higher court; or

- (c) The defendant files an answer and a motion to seal the record upon grounds that a valid factual defense exists, to be raised in a motion for summary judgment pursuant to CR 56. The record shall remain sealed by the clerk until the court rules upon the defendant's motion to close the record. If the court grants the motion to close, the record shall remain sealed until the defendant's motion for summary judgment is granted. The complaint, motions, and other related papers or pleadings shall remain sealed unless opened by a higher court.

(4) This section shall apply to direct perpetrators of childhood sexual assault or abuse and third-party individuals and corporate entities who may be criminally liable for the criminal act of those perpetrators pursuant to KRS 502.020, 502.050, or 506.080 as well as any other legal cause of action that may entitle victims of childhood sexual assault or abuse to claims against third-party individuals and corporate entities who may be liable for the acts of their perpetrators.

(5) (a) As was its intention with the passage of 2017 Ky. Acts ch. 114, sec. 2, the General Assembly hereby states that the amendments enacted in 2017 Ky. Acts ch. 114, sec. 2 shall be applied retroactively to actions accruing before its effective date of June 29, 2017. This section is a remedial statute which is to be given the most liberal interpretation to provide remedies for victims of childhood sexual assault or abuse.

(b) Notwithstanding any provision of law to the contrary, any claim for childhood sexual assault or abuse that was barred as of the effective date of 2017 Ky. Acts ch. 114, sec. 2 because the applicable statute of limitation had expired is hereby revived and action thereon may be commenced in accordance with this section.

➔Section 4. The restrictions of KRS 6.945(1) shall not apply to Sections 1 to 3 of this

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Act.

→Section 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

→Section 6. Whereas Kentucky has the highest rate of child abuse in the country, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."