

# FREE CONFERENCE COMMITTEE REPORT

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The Free Conference Committee on **SB 66** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted:

  X   GA        SCS        HCS

For the above-referenced bill, with these amendments (if applicable):

Committee (list by chamber and number):       ;

Floor (list by chamber and number):       ; and

The following Free Conference Committee action:

On page 1 line 3, through page 6, line 2, by deleting in their entirety and replacing in lieu thereof the following:

"➔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;

- 1 (h) Promoting the sale of material portraying a sexual performance by a minor, as in KRS  
2 531.350;
- 3 (i) Advertising material portraying a sexual performance by a minor, as in KRS 531.360;
- 4 (j) Using minors to distribute material portraying a sexual performance by a minor, as in  
5 KRS 531.370;
- 6 (k) Human trafficking involving commercial sexual activity, as in KRS 529.100;
- 7 (l) Promoting prostitution, as in KRS 529.040, when the defendant advances or profits  
8 from the prostitution of a person under the age of eighteen (18);
- 9 (m) Unlawful transaction with a minor in the first degree, as in KRS 530.064(1)(a);
- 10 (n) Any attempt to commit any of the offenses described in paragraphs (a) to (m) of this  
11 subsection; or
- 12 (o) Solicitation to commit any of the offenses described in paragraphs (a) to (m) of this  
13 subsection;
- 14 (2) **"Local government" means a city, county, consolidated local government, urban-county**  
15 **government, unified local government, or charter county government;**
- 16 (3) **"Local government youth day camp" means a camp operated by a local government for**  
17 **all or part of a day, whether free or for a fee, for five (5) or more children under eighteen**  
18 **(18) years of age outside the presence of their parent or guardian for recreational or**  
19 **educational purposes for four (4) or more consecutive hours per day during school**  
20 **vacation periods, school breaks, or school cancellations;**
- 21 (4) "Sex crime" means a conviction or a plea of guilty to any of the following offenses:
- 22 (a) Rape in the first degree as in KRS 510.040;
- 23 (b) Rape in the second degree as in KRS 510.050;
- 24 (c) Rape in the third degree as in KRS 510.060;
- 25 (d) Sodomy in the first degree as in KRS 510.070;
- 26 (e) Sodomy in the second degree as in KRS 510.080;
- 27 (f) Sodomy in the third degree as in KRS 510.090;

- 1 (g) Sodomy in the fourth degree as in KRS 510.100;
- 2 (h) Sexual abuse in the first degree as in KRS 510.110;
- 3 (i) Sexual abuse in the second degree as in KRS 510.120;
- 4 (j) Sexual abuse in the third degree as in KRS 510.130;
- 5 (k) Indecent exposure in the first degree as in KRS 510.148;
- 6 (l) Indecent exposure in the second degree as in KRS 510.150;
- 7 (m) Unlawful use of electronic means originating or received within the Commonwealth
- 8 to induce a minor to engage in sexual or other prohibited activities as in KRS
- 9 510.155; or
- 10 (n) Incest as in KRS 530.020;

11 **(5) "Staff member" means:**

- 12 **(a) An individual who is employed by a youth camp or camp or a local government**
- 13 **youth day camp for compensation;**
- 14 **(b) A contract employee or a self-employed individual whose employment directly**
- 15 **involves the care or supervision of children or unsupervised access to children**
- 16 **placed with a youth camp or camp or a local government youth day camp; or**
- 17 **(c) A volunteer or intern whose activities on behalf of a youth camp or camp or a local**
- 18 **government youth day camp directly involves the care or supervision of children or**
- 19 **unsupervised access to children placed with a youth camp or camp or a local**
- 20 **government youth day camp;**

21 ~~(6)~~~~(3)~~ "Violent offender" means any person who has been convicted of or who has entered a

22 plea of guilty to the commission of a capital offense, Class A felony, Class B felony

23 involving the death of the victim or serious physical injury to the victim, or rape in the first

24 degree, or sodomy in the first degree; and

25 ~~(7)~~~~(4)~~ "Youth camp" or "camp" means:

- 26 (a) Any camp required pursuant to KRS 211.180 to obtain a permit to operate; and
- 27 (b) Any program offered, whether free or for a fee, for recreational, educational, sports

1 training, or vacation purposes to children under eighteen (18) years of age that a child  
2 attends outside the presence of his or her parent or legal guardian.

3 →Section 2. KRS 194A.382 is amended to read as follows:

- 4 (1) A youth camp **or camp or a local government youth day camp** that receives public funds  
5 shall not employ, contract, or utilize as a volunteer, in any position, any **staff**  
6 **member**~~[person]~~ who has been convicted of or who has entered a plea of guilty to a  
7 criminal offense against a minor or a sex crime, who is a violent offender, or who has been  
8 found by the Cabinet for Health and Family Services or a court to have abused or neglected  
9 a child.
- 10 (2) Prior to employing, contracting with, or allowing volunteer work, each youth camp **or**  
11 **camp or a local government youth day camp** that receives public funds shall obtain from  
12 the Justice and Public Safety Cabinet a national and state criminal background check of the  
13 applicant, contractor, or volunteer **who is or intends to become a staff member** prior to the  
14 individual's presence at the camp or involvement in any program of the camp.
- 15 (3) Prior to employing, contracting with, or allowing volunteer work, each youth camp **or**  
16 **camp or a local government youth day camp** that receives public funds shall require **an**  
17 **applicant**~~[applicants]~~ to obtain a letter from the Cabinet for Health and Family Services  
18 stating the individual is clear to hire based on no findings of substantiated child abuse or  
19 neglect found through a background check of child abuse and neglect records maintained  
20 by the Cabinet for Health and Family Services of the applicant, contractor, or volunteer  
21 **who intends to become a staff member** prior to the individual's presence at the camp or  
22 involvement in any program of the camp.
- 23 (4) Each application form provided by a youth camp **or camp or a local government youth day**  
24 **camp** that receives public funds to an applicant or volunteer **who intends to become a staff**  
25 **member** shall in a prominent place and legible font conspicuously state the following:  
26 "STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL BACKGROUND  
27 CHECK AND A LETTER FROM THE CABINET FOR HEALTH AND FAMILY

1 SERVICES STATING THE STAFF MEMBER~~[EMPLOYEE]~~ IS CLEAR TO HIRE  
2 BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR NEGLECT  
3 FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT  
4 RECORDS AS A CONDITION OF EMPLOYMENT OR INVOLVEMENT IN THIS  
5 PROGRAM."

6 (5) Any request for records under this section shall be on a form approved by the Justice and  
7 Public Safety Cabinet, and the cabinet may charge a fee to be paid by the applicant in an  
8 amount no greater than the actual cost of processing the request.

9 (6) This section shall apply to all applicants and volunteers in a position which involves  
10 supervisory or disciplinary power over a minor, who intend to become staff members.

11 (7) This section shall not be construed to prohibit an exempted organization from requiring its  
12 employees, contractors, or volunteers to submit to a background check. A youth  
13 camp~~[camps]~~ or camp or a local government youth day camp that does~~[do]~~ not receive  
14 public funds may require its employees, contractor, or volunteers to submit to a criminal  
15 background check and to have a letter, provided by the individual, from the Cabinet for  
16 Health and Family Services stating the individual has no findings of substantiated child  
17 abuse or neglect found through a background check of child abuse and neglect records  
18 maintained by the Cabinet for Health and Family Services.

19 (8) This section shall not be construed to require a youth camp or camp or a local government  
20 youth day camp that receives public funds to employ, contract with, or allow volunteering  
21 by, an individual solely on the basis of an acceptable criminal background check.

22 (9) This section shall not limit the ability of a youth camp or camp or a local government  
23 youth day camp that receives public funds to establish a more stringent background check  
24 process for its employees, contractors, or volunteers regarding other criminal offenses  
25 which, in the discretion of the youth camp or camp or a local government youth day camp  
26 that receives public funds, would disqualify the individual from involvement with the youth  
27 camp or camp or a local government youth day camp.

1 (10) The form for requesting a letter, required by this section, stating a staff member~~an~~  
 2 ~~employee~~ is clear to hire based on a background check of child abuse and neglect records  
 3 maintained by the Cabinet for Health and Family Services shall be made available on the  
 4 Cabinet for Health and Family Services Web site.

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

6 (1) Failure to comply with KRS 194A.382 will result in immediate suspension of the entity's  
 7 permit until compliance is obtained.

8 (2) If any employee, contractor, or volunteer who is a staff member is discovered to be a  
 9 violent offender or has been convicted of a sex crime or a criminal offense against a minor,  
 10 or has been found by the Cabinet for Health and Family Services to have abused or  
 11 neglected a child, and if he or she has waived the right to appeal a substantiated finding of  
 12 child abuse or neglect or if the substantiated incident was upheld upon appeal, he or she  
 13 shall be immediately terminated from participation with the program and removed from the  
 14 property.

15 (3) Any person who owns or operates a youth camp or camp or a local government youth day  
 16 camp that receives public funds and who knowingly allows an individual who is a staff  
 17 member to serve or continue to serve as an employee, contractor, or volunteer despite a  
 18 conviction or offense specified in this section shall be guilty of a Class A misdemeanor for  
 19 the first offense and a Class D felony for each subsequent offense.

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

22 (1) A local government youth day camp shall not be required:

23 (a) To be licensed as a child care center as defined in KRS 199.894; or

24 (b) To obtain a permit under KRS 211.180.

25 (2) A local government youth day camp shall comply with background checks required  
 26 under Section 2 of this Act."

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