

1 AN ACT relating to youth camps.

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

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

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

- 5 (1) "Criminal offense against a minor" means a conviction or a plea of guilty to any of  
6 the following offenses if the victim is under the age of eighteen (18) at the time of  
7 the commission of the offense:
- 8 (a) Kidnapping, as in KRS 509.040, except by a parent;
  - 9 (b) Unlawful imprisonment, as in KRS 509.020, except by a parent;
  - 10 (c) Sexual misconduct as in KRS 510.140;
  - 11 (d) Use of a minor in a sexual performance, as in KRS 531.310;
  - 12 (e) Promoting a sexual performance of a minor, as in KRS 531.320;
  - 13 (f) Possession or viewing matter portraying a sexual performance by a minor, as  
14 in KRS 531.335;
  - 15 (g) Distribution of matter portraying a sexual performance by a minor, as in KRS  
16 531.340;
  - 17 (h) Promoting the sale of material portraying a sexual performance by a minor, as  
18 in KRS 531.350;
  - 19 (i) Advertising material portraying a sexual performance by a minor, as in KRS  
20 531.360;
  - 21 (j) Using minors to distribute material portraying a sexual performance by a  
22 minor, as in KRS 531.370;
  - 23 (k) Human trafficking involving commercial sexual activity, as in KRS 529.100;
  - 24 (l) Promoting prostitution, as in KRS 529.040, when the defendant advances or  
25 profits from the prostitution of a person under the age of eighteen (18);
  - 26 (m) Unlawful transaction with a minor in the first degree, as in KRS  
27 530.064(1)(a);

- 1 (n) Any attempt to commit any of the offenses described in paragraphs (a) to (m)  
2 of this subsection; or
- 3 (o) Solicitation to commit any of the offenses described in paragraphs (a) to (m)  
4 of this subsection;
- 5 (2) "Sex crime" means a conviction or a plea of guilty to any of the following offenses:
- 6 (a) Rape in the first degree as in KRS 510.040;
- 7 (b) Rape in the second degree as in KRS 510.050;
- 8 (c) Rape in the third degree as in KRS 510.060;
- 9 (d) Sodomy in the first degree as in KRS 510.070;
- 10 (e) Sodomy in the second degree as in KRS 510.080;
- 11 (f) Sodomy in the third degree as in KRS 510.090;
- 12 (g) Sodomy in the fourth degree as in KRS 510.100;
- 13 (h) Sexual abuse in the first degree as in KRS 510.110;
- 14 (i) Sexual abuse in the second degree as in KRS 510.120;
- 15 (j) Sexual abuse in the third degree as in KRS 510.130;
- 16 (k) Indecent exposure in the first degree as in KRS 510.148;
- 17 (l) Indecent exposure in the second degree as in KRS 510.150;
- 18 (m) Unlawful use of electronic means originating or received within the  
19 Commonwealth to induce a minor to engage in sexual or other prohibited  
20 activities as in KRS 510.155; or
- 21 (n) Incest as in KRS 530.020;
- 22 (3) **"Staff member" means:**
- 23 **(a) An individual who is employed by a youth day camp or youth residential**  
24 **camp for compensation;**
- 25 **(b) A contract employee or a self-employed individual whose employment**  
26 **directly involves the care or supervision of children or unsupervised access**  
27 **to children placed with a youth day camp or youth residential camp; or**

1 (c) A volunteer or intern whose activities on behalf of a youth day camp or  
 2 youth residential camp directly involves the care or supervision of children  
 3 or unsupervised access to children placed with a youth day camp or youth  
 4 residential camp;

5 (4) "Violent offender" means any person who has been convicted of or who has entered  
 6 a plea of guilty to the commission of a capital offense, Class A felony, Class B  
 7 felony involving the death of the victim or serious physical injury to the victim, or  
 8 rape in the first degree, or sodomy in the first degree; ~~and~~

9 (5) "Youth day camp" means:

10 (a) A camp operated for all or part of a day, whether free or for a fee, for five  
 11 (5) or more children under eighteen (18) years of age outside the presence  
 12 of his or her parent or guardian for recreational or educational purposes  
 13 for four (4) or more consecutive hours per day during school vacation  
 14 periods, school breaks, or school cancellations; and

15 (b) A camp required to obtain a permit to operate pursuant to KRS 211.180 that  
 16 does not include overnight lodging; and

17 (6) "Youth residential camp" means:

18 (a) A camp operated on an area, a parcel, or a tract of land on which  
 19 permanent facilities are established, maintained, or operated for  
 20 recreational, educational, or vacation purposes, whether free or for a fee,  
 21 for five (5) or more children under eighteen (18) years of age to attend  
 22 outside the presence of his or her parent or guardian; and

23 (b) A camp required to obtain a permit to operate pursuant to KRS 211.180 that  
 24 includes overnight lodging ~~(4)~~ — "Youth camp" or "camp" means:

25 ~~(a) Any camp required pursuant to KRS 211.180 to obtain a permit to operate;~~  
 26 ~~and~~

27 ~~(b) Any program offered, whether free or for a fee, for recreational, educational,~~

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

4           ➔Section 2. KRS 194A.382 is amended to read as follows:

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

1        staff member, shall in a prominent place and legible font conspicuously state the  
2 following: "STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL  
3 BACKGROUND CHECK AND A LETTER FROM THE CABINET FOR  
4 HEALTH AND FAMILY SERVICES STATING THE STAFF  
5 MEMBER~~EMPLOYEE~~ IS CLEAR TO HIRE BASED ON NO FINDINGS OF  
6 SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A  
7 BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS AS A  
8 CONDITION OF EMPLOYMENT OR INVOLVEMENT IN THIS PROGRAM."

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

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

15 (7) This section shall not be construed to prohibit an exempted organization from  
16 requiring its employees, contractors, or volunteers to submit to a background check.  
17 Youth day camps or youth residential camps that do not receive public funds may  
18 require its employees, contractor, or volunteers to submit to a criminal background  
19 check and to have a letter, provided by the individual, from the Cabinet for Health  
20 and Family Services stating the individual has no findings of substantiated child  
21 abuse or neglect found through a background check of child abuse and neglect  
22 records maintained by the Cabinet for Health and Family Services.

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

26 (9) This section shall not limit the ability of a youth day camp or youth residential  
27 camp that receives public funds to establish a more stringent background check

1 process for its employees, contractors, or volunteers regarding other criminal  
 2 offenses which, in the discretion of the youth day camp or youth residential camp  
 3 that receives public funds, would disqualify the individual from involvement with  
 4 the youth day camp or youth residential camp.

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

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

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

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

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

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

26 The Cabinet for Health and Family Services shall promulgate administrative  
 27 regulations pursuant to KRS 211.180 and KRS Chapter 13A to set forth standards for

- 1 *the operation and maintenance of youth day camps and youth residential camps in a*  
2 *safe, sanitary manner to protect public health and to distinguish the operation and*  
3 *maintenance of youth day camps from the operation and maintenance of youth*  
4 *residential camps. The administrative regulations shall:*
- 5 *(1) Include but not be limited to safety and sanitation requirements for the operation*  
6 *and maintenance of youth day camp and youth residential camp facilities; and*
- 7 *(2) Not require a youth day camp to be licensed as a child-care center as defined in*  
8 *KRS 199.894.*