

1 AN ACT relating to child abuse and declaring an emergency.

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

3 ➔Section 1. KRS 500.050 is amended to read as follows:

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

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

13 **means a misdemeanor offense in:**

14 **1. KRS Chapter 510;**

15 **2. KRS Chapter 531 involving a minor or depiction of a minor; or**

16 **3. KRS 506.010 or 506.030 for attempt to commit or solicitation to**  
17 **commit:**

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

20 **b. Promoting prostitution under KRS 529.040 when the defendant**  
21 **advances or profits from the prostitution of a minor;**

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

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

26 **e. Unlawful transaction with a minor in the first degree under KRS**  
27 **530.064(1)(a).**

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

5 ➔Section 2. KRS 413.249 is amended to read as follows:

6 (1) As used in this section:

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

10 **1. KRS Chapter 510;**

11 **2. KRS 529.040 when the defendant advances or profits from the**  
 12 **prostitution of a minor;**~~[in KRS 510.040, 510.050, 510.060, 510.070,~~  
 13 ~~510.080, 510.090, 510.110,]~~

14 **3. KRS 529.100 when**~~[where]~~ the offense involves commercial sexual  
 15 activity;~~[,]~~

16 **4. KRS 529.110 when**~~[where]~~ the offense involves commercial sexual  
 17 activity;~~[,]~~

18 **5. KRS 530.020 or**~~[,]~~ **530.064(1)(a);**~~[, 531.310, or 531.320]~~

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

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

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

26 (b) ~~["Childhood sexual abuse" means an act or series of acts against a person less~~  
 27 ~~than eighteen (18) years old and which meets the criteria defining a~~

1           misdemeanor in ~~KRS 510.120, KRS 510.130, KRS 510.140, or KRS 510.150.~~  
2           No prior criminal prosecution or conviction of the civil defendant for the act  
3           or series of acts shall be required to bring a civil action for redress of  
4           childhood sexual abuse;

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

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

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

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

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

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

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

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

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

24           (b) Any motion to dismiss under CR 12.02 is ruled upon, and if the complaint is  
25           dismissed, the complaint and any related papers or pleadings shall remain  
26           sealed unless opened by a higher court; or

27           (c) The defendant files an answer and a motion to seal the record upon grounds

1 that a valid factual defense exists, to be raised in a motion for summary  
2 judgment pursuant to CR 56. The record shall remain sealed by the clerk until  
3 the court rules upon the defendant's motion to close the record. If the court  
4 grants the motion to close, the record shall remain sealed until the defendant's  
5 motion for summary judgment is granted. The complaint, motions, and other  
6 related papers or pleadings shall remain sealed unless opened by a higher  
7 court.

8 (4) This section shall apply to direct perpetrators of childhood sexual assault or  
9 abuse and third-party individuals and corporate entities who may be criminally  
10 liable for the criminal act of those perpetrators pursuant to KRS 502.020,  
11 502.050, or 506.080 as well as any other legal cause of action that may entitle  
12 victims of childhood sexual assault or abuse to claims against third-party  
13 individuals and corporate entities who may be liable for the acts of their  
14 perpetrators.

15 (5) (a) Neither the husband-wife nor any professional-client/patient privilege,  
16 except the attorney-client and clergy-penitent privilege, shall be a ground  
17 for excluding evidence regarding childhood sexual assault or abuse or the  
18 cause thereof, in any judicial proceeding. This subsection shall also apply  
19 in any criminal proceeding in District or Circuit Court regarding childhood  
20 sexual assault or abuse.

21 (b) As used in paragraph (a) of this subsection, the clergy-penitent privilege is  
22 limited to information received solely through confidential communications  
23 with a clergy member, privately or in a confessional setting, when in the  
24 course of the discipline or practice of the clergy member's church,  
25 denomination, or organization, he or she is authorized or accustomed to  
26 hearing those communications, and under the discipline, tenets, customs, or  
27 practices of his or her church, denomination, or organization, has a duty to

1 keep those communications secret.

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

8 (b) Notwithstanding any provision of law to the contrary, any claim for  
9 childhood sexual assault or abuse that was barred as of the effective date of  
10 2017 Ky. Acts ch. 114, sec. 2 because the applicable statute of limitation had  
11 expired is hereby revived and action thereon may be commenced in  
12 accordance with this section.

13 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO  
14 READ AS FOLLOWS:

15 The General Assembly finds and declares that:

16 (1) It is contrary to the public policy of the Commonwealth for an insurer to defend  
17 or indemnify any perpetrator of childhood sexual assault or abuse;

18 (2) It is contrary to the public policy of the Commonwealth for any insurance carrier  
19 under any policy of insurance to provide a defense to or indemnify an actor  
20 alleged to have childhood sexual assault or abuse as defined in Section 2 of this  
21 Act;

22 (3) An insurance carrier shall not be required to provide a defense to or indemnify  
23 any actor as defined in KRS 500.080 alleged to have committed a childhood  
24 sexual assault or abuse, as defined in Section 2 of this Act, in an action to recover  
25 damages from injury; and

26 (4) An employer shall not be held responsible for any damages caused by an  
27 employee's alleged childhood sexual assault or abuse, as defined in Section 2 of

1        *this Act, so long as the employer followed reasonable and customary policies*  
2        *related to the subject.*

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

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

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