

1 AN ACT relating to sexual offenses by peace officers.

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

3 ➔Section 1. KRS 510.060 is amended to read as follows:

- 4 (1) A person is guilty of rape in the third degree when:
- 5 (a) Being twenty-one (21) years old or more, he or she engages in sexual
6 intercourse with another person less than sixteen (16) years old;
- 7 (b) Being at least ten (10) years older than a person who is sixteen (16) or
8 seventeen (17) years old at the time of sexual intercourse, he or she engages in
9 sexual intercourse with the person;
- 10 (c) Being twenty-one (21) years old or more, he or she engages in sexual
11 intercourse with another person less than eighteen (18) years old and for
12 whom he or she provides a foster family home as defined in KRS 600.020;
- 13 (d) Being a person in a position of authority or position of special trust, as defined
14 in KRS 532.045, he or she engages in sexual intercourse with a minor under
15 eighteen (18) years old with whom he or she comes into contact as a result of
16 that position;~~or~~
- 17 (e) Being a jailer, or an employee, contractor, vendor, or volunteer of the
18 Department of Corrections, Department of Juvenile Justice, or a detention
19 facility as defined in KRS 520.010, or of an entity under contract with either
20 department or a detention facility for the custody, supervision, evaluation, or
21 treatment of offenders, he or she subjects a person who he or she knows is
22 incarcerated, supervised, evaluated, or treated by the Department of
23 Corrections, Department of Juvenile Justice, detention facility, or contracting
24 entity, to sexual intercourse; or
- 25 **(f) *Being a peace officer, while serving in his or her official capacity, he or she***
26 ***subjects a person who the officer:***
- 27 **1. *Arrested, held in custody, or investigated for commission of a traffic***

1 or criminal offense; or
 2 2. Knew or should have known was under arrest, held in custody, or
 3 being investigated for commission of a traffic or criminal offense;
 4 to sexual intercourse.

5 (2) Rape in the third degree is a Class D felony.

6 ➔Section 2. KRS 510.090 is amended to read as follows:

7 (1) A person is guilty of sodomy in the third degree when:

- 8 (a) Being twenty-one (21) years old or more, he or she engages in deviate sexual
 9 intercourse with another person less than sixteen (16) years old;
- 10 (b) Being at least ten (10) years older than a person who is sixteen (16) or
 11 seventeen (17) years old at the time of deviate sexual intercourse, he or she
 12 engages in deviate sexual intercourse with the person;
- 13 (c) Being twenty-one (21) years old or more, he or she engages in deviate sexual
 14 intercourse with another person less than eighteen (18) years old and for
 15 whom he or she provides a foster family home as defined in KRS 600.020;
- 16 (d) Being a person in a position of authority or position of special trust, as defined
 17 in KRS 532.045, he or she engages in deviate sexual intercourse with a minor
 18 less than eighteen (18) years old with whom he or she comes into contact as a
 19 result of that position;~~[-or]~~
- 20 (e) Being a jailer, or an employee, contractor, vendor, or volunteer of the
 21 Department of Corrections, Department of Juvenile Justice, or a detention
 22 facility as defined in KRS 520.010, or of an entity under contract with either
 23 department or a detention facility for the custody, supervision, evaluation, or
 24 treatment of offenders, he or she subjects a person who he or she knows is
 25 incarcerated, supervised, evaluated, or treated by the Department of
 26 Corrections, Department of Juvenile Justice, detention facility, or contracting
 27 entity, to deviate sexual intercourse; or

1 (f) Being a peace officer, while serving in his or her official capacity, he or she
 2 subjects a person who the officer:

3 1. Arrested, held in custody, or investigated for commission of a traffic
 4 or criminal offense; or

5 2. Knew or should have known was under arrest, held in custody, or
 6 being investigated for commission of a traffic or criminal offense;

7 to deviate sexual intercourse.

8 (2) Sodomy in the third degree is a Class D felony.

9 ➔Section 3. KRS 510.120 is amended to read as follows:

10 (1) A person is guilty of sexual abuse in the second degree when:

11 (a) He or she is at least eighteen (18) years old but less than twenty-one (21) years
 12 old and subjects another person who is less than sixteen (16) years old to
 13 sexual contact;~~or~~

14 (b) Being a jailer, or an employee, contractor, vendor, or volunteer of the
 15 Department of Corrections, Department of Juvenile Justice, or a detention
 16 facility as defined in KRS 520.010, or of an entity under contract with either
 17 department or a detention facility for the custody, supervision, evaluation, or
 18 treatment of offenders, he or she subjects a person who is at least eighteen
 19 (18) years old and who he or she knows is incarcerated, supervised, evaluated,
 20 or treated by the Department of Corrections, Department of Juvenile Justice,
 21 detention facility, or contracting entity, to sexual contact; or

22 (c) Being a peace officer, while serving in his or her official capacity, he or she
 23 subjects a person who the officer:

24 1. Arrested, held in custody, or investigated for commission of a traffic
 25 or criminal offense; or

26 2. Knew or should have known was under arrest, held in custody, or
 27 being investigated for commission of a traffic or criminal offense;

1 *to sexual contact.*

2 (2) In any prosecution under subsection (1)(a) of this section, it is a defense that:

3 (a) The other person's lack of consent was due solely to incapacity to consent by
4 reason of being less than sixteen (16) years old; and

5 (b) The other person was at least fourteen (14) years old; and

6 (c) The actor was less than five (5) years older than the other person.

7 (3) Sexual abuse in the second degree is a Class A misdemeanor.