

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, he or she subjects a person who he or she:***

26 **1. *Arrested or otherwise held in custody; or***

27 **2. *Knew or should have known was under arrest or otherwise being held***

1 *in custody;*
 2 *to sexual intercourse.*

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

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

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

6 (a) Being twenty-one (21) years old or more, he or she engages in deviate sexual
 7 intercourse with another person less than sixteen (16) years old;

8 (b) Being at least ten (10) years older than a person who is sixteen (16) or
 9 seventeen (17) years old at the time of deviate sexual intercourse, he or she
 10 engages in deviate sexual intercourse with the person;

11 (c) Being twenty-one (21) years old or more, he or she engages in deviate sexual
 12 intercourse with another person less than eighteen (18) years old and for
 13 whom he or she provides a foster family home as defined in KRS 600.020;

14 (d) Being a person in a position of authority or position of special trust, as defined
 15 in KRS 532.045, he or she engages in deviate sexual intercourse with a minor
 16 less than eighteen (18) years old with whom he or she comes into contact as a
 17 result of that position;~~[-or]~~

18 (e) Being a jailer, or an employee, contractor, vendor, or volunteer of the
 19 Department of Corrections, Department of Juvenile Justice, or a detention
 20 facility as defined in KRS 520.010, or of an entity under contract with either
 21 department or a detention facility for the custody, supervision, evaluation, or
 22 treatment of offenders, he or she subjects a person who he or she knows is
 23 incarcerated, supervised, evaluated, or treated by the Department of
 24 Corrections, Department of Juvenile Justice, detention facility, or contracting
 25 entity, to deviate sexual intercourse; *or*

26 *(f) Being a peace officer, he or she subjects a person who he or she:*

27 *1. Arrested or otherwise held in custody; or*

1 **2. Knew or should have known was under arrest or otherwise being held**
 2 **in custody;**
 3 **to deviate sexual intercourse.**

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

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

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

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

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

18 **(c) Being a peace officer, he or she subjects a person who he or she:**

19 **1. Arrested or otherwise held in custody; or**

20 **2. Knew or should have known was under arrest or otherwise being held**
 21 **in custody;**
 22 **to sexual contact.**

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

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

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

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

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