

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) **"Local government" means a city, county, consolidated local government, urban-**  
6 **county government, unified local government, or charter county government;**
- 7 (3) **"Local government youth day camp" means a camp operated by a local**  
8 **government for all or part of a day, whether free or for a fee, for five (5) or more**  
9 **children under eighteen (18) years of age outside the presence of their parent or**  
10 **guardian for recreational or educational purposes for four (4) or more**  
11 **consecutive hours per day during school vacation periods, school breaks, or**  
12 **school cancellations;**
- 13 (4) "Sex crime" means a conviction or a plea of guilty to any of the following offenses:
- 14 (a) Rape in the first degree as in KRS 510.040;
- 15 (b) Rape in the second degree as in KRS 510.050;
- 16 (c) Rape in the third degree as in KRS 510.060;
- 17 (d) Sodomy in the first degree as in KRS 510.070;
- 18 (e) Sodomy in the second degree as in KRS 510.080;
- 19 (f) Sodomy in the third degree as in KRS 510.090;
- 20 (g) Sodomy in the fourth degree as in KRS 510.100;
- 21 (h) Sexual abuse in the first degree as in KRS 510.110;
- 22 (i) Sexual abuse in the second degree as in KRS 510.120;
- 23 (j) Sexual abuse in the third degree as in KRS 510.130;
- 24 (k) Indecent exposure in the first degree as in KRS 510.148;
- 25 (l) Indecent exposure in the second degree as in KRS 510.150;
- 26 (m) Unlawful use of electronic means originating or received within the  
27 Commonwealth to induce a minor to engage in sexual or other prohibited

1 activities as in KRS 510.155; or

2 (n) Incest as in KRS 530.020;

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

4 **(a) An individual who is employed by a youth camp or camp or a local**  
 5 **government youth day camp for compensation;**

6 **(b) A contract employee or a self-employed individual whose employment**  
 7 **directly involves the care or supervision of children or unsupervised access**  
 8 **to children placed with a youth camp or camp or a local government youth**  
 9 **day camp; or**

10 **(c) A volunteer or intern whose activities on behalf of a youth camp or camp or**  
 11 **a local government youth day camp directly involves the care or supervision**  
 12 **of children or unsupervised access to children placed with a youth camp or**  
 13 **camp or a local government youth day camp;**

14 **(6)**~~(3)~~ "Violent offender" means any person who has been convicted of or who has  
 15 entered a plea of guilty to the commission of a capital offense, Class A felony, Class  
 16 B felony involving the death of the victim or serious physical injury to the victim, or  
 17 rape in the first degree, or sodomy in the first degree; and

18 **(7)**~~(4)~~ "Youth camp" or "camp" means:

19 (a) Any camp required pursuant to KRS 211.180 to obtain a permit to operate;  
 20 and

21 (b) Any program offered, whether free or for a fee, for recreational, educational,  
 22 sports training, or vacation purposes to children under eighteen (18) years of  
 23 age that a child attends outside the presence of his or her parent or legal  
 24 guardian.

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

26 (1) A youth camp **or camp or a local government youth day camp** that receives public  
 27 funds shall not employ, contract, or utilize as a volunteer, in any position, any **staff**

- 1        member~~[person]~~ who has been convicted of or who has entered a plea of guilty to a  
2        criminal offense against a minor or a sex crime, who is a violent offender, or who  
3        has been found by the Cabinet for Health and Family Services or a court to have  
4        abused or neglected a child.
- 5        (2) Prior to employing, contracting with, or allowing volunteer work, each youth camp  
6        or camp or a local government youth day camp that receives public funds shall  
7        obtain from the Justice and Public Safety Cabinet a national and state criminal  
8        background check of the applicant, contractor, or volunteer who is or intends to  
9        become a staff member prior to the individual's presence at the camp or  
10       involvement in any program of the camp.
- 11       (3) Prior to employing, contracting with, or allowing volunteer work, each youth camp  
12       or camp or a local government youth day camp that receives public funds shall  
13       require an applicant~~[applicants]~~ to obtain a letter from the Cabinet for Health and  
14       Family Services stating the individual is clear to hire based on no findings of  
15       substantiated child abuse or neglect found through a background check of child  
16       abuse and neglect records maintained by the Cabinet for Health and Family Services  
17       of the applicant, contractor, or volunteer who intends to become a staff member  
18       prior to the individual's presence at the camp or involvement in any program of the  
19       camp.
- 20       (4) Each application form provided by a youth camp or camp or a local government  
21       youth day camp that receives public funds to an applicant or volunteer who intends  
22       to become a staff member shall in a prominent place and legible font conspicuously  
23       state the following: "STATE LAW REQUIRES A NATIONAL AND STATE  
24       CRIMINAL BACKGROUND CHECK AND A LETTER FROM THE CABINET  
25       FOR HEALTH AND FAMILY SERVICES STATING THE STAFF  
26       MEMBER~~[EMPLOYEE]~~ IS CLEAR TO HIRE BASED ON NO FINDINGS OF  
27       SUBSTANTIATED CHILD ABUSE OR NEGLECT FOUND THROUGH A

1 BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS AS A  
2 CONDITION OF EMPLOYMENT OR INVOLVEMENT IN THIS PROGRAM."

- 3 (5) Any request for records under this section shall be on a form approved by the  
4 Justice and Public Safety Cabinet, and the cabinet may charge a fee to be paid by  
5 the applicant in an amount no greater than the actual cost of processing the request.
- 6 (6) This section shall apply to all applicants and volunteers in a position which involves  
7 supervisory or disciplinary power over a minor, who intend to become staff  
8 members.
- 9 (7) This section shall not be construed to prohibit an exempted organization from  
10 requiring its employees, contractors, or volunteers to submit to a background check.  
11 A youth camp~~[camps]~~ or camp or a local government youth day camp that  
12 does~~[do]~~ not receive public funds may require its employees, contractor, or  
13 volunteers to submit to a criminal background check and to have a letter, provided  
14 by the individual, from the Cabinet for Health and Family Services stating the  
15 individual has no findings of substantiated child abuse or neglect found through a  
16 background check of child abuse and neglect records maintained by the Cabinet for  
17 Health and Family Services.
- 18 (8) This section shall not be construed to require a youth camp or camp or a local  
19 government youth day camp that receives public funds to employ, contract with, or  
20 allow volunteering by, an individual solely on the basis of an acceptable criminal  
21 background check.
- 22 (9) This section shall not limit the ability of a youth camp or camp or a local  
23 government youth day camp that receives public funds to establish a more stringent  
24 background check process for its employees, contractors, or volunteers regarding  
25 other criminal offenses which, in the discretion of the youth camp or camp or a  
26 local government youth day camp that receives public funds, would disqualify the  
27 individual from involvement with the youth camp or camp or a local government

1        **youth day camp.**

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

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

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

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

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

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

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

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

26       **(b) To obtain a permit under KRS 211.180.**

27       **(2) A local government youth day camp shall comply with background checks**

1 *required under Section 2 of this Act.*