

1 AN ACT relating to incest.

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

3 ➔Section 1. KRS 530.020 is amended to read as follows:

4 (1) A person is guilty of incest when he or she has sexual intercourse or deviate sexual
5 intercourse, as defined in KRS 510.010, with a person whom he or she knows to be
6 **his or her parent, child, grandparent, grandchild, great-grandparent, great-**
7 **grandchild**~~[an ancestor, descendant]~~, uncle, aunt, **nephew, niece**, brother, ~~[or]~~
8 sister, **or first cousin**. The relationships referred to herein include blood
9 relationships of either the whole or half blood without regard to legitimacy,
10 relationship of parent and child by adoption, relationship of stepparent and
11 stepchild, and relationship of stepgrandparent and stepgrandchild.

12 (2) (a) Incest is a Class C felony if the act is committed by consenting
13 **persons**~~[adults]~~.

14 (b) Incest is a Class B felony if committed:

15 1. **With a person without his or her consent;**

16 **2.** By forcible compulsion as defined in KRS 510.010(2); or

17 **3.**~~[2.]~~ **With**~~[On]~~ a **person**~~[victim]~~ who is:

18 a. Less than eighteen (18) years of age **by a person three (3) or more**
19 **years older;** or

20 b. Incapable of consent because he or she is physically helpless or
21 mentally incapacitated.

22 (c) Incest is a Class A felony if **committed:**

23 1. **With**~~[Committed on]~~ a **person who is**~~[victim]~~ less than twelve (12)
24 years of age; or

25 2. **With a person without his or her consent causing**~~[The victim receives]~~
26 serious physical injury.

27 ➔Section 2. KRS 510.010 is amended to read as follows:

1 The following definitions apply in this chapter unless the context otherwise requires:

- 2 (1) "Deviate sexual intercourse" means any act of sexual gratification involving the sex
3 organs of one person and the mouth or anus of another; or penetration of the anus of
4 one person by any body part or a foreign object manipulated by another person.
5 "Deviate sexual intercourse" does not include penetration of the anus by any body
6 part or a foreign object in the course of the performance of generally recognized
7 health-care practices;
- 8 (2) "Forcible compulsion" means physical force or threat of physical force, express or
9 implied, which places a person in fear of immediate death, physical injury to self or
10 another person, fear of the immediate kidnap of self or another person, or fear of
11 any offense under this chapter. Physical resistance on the part of the victim shall not
12 be necessary to meet this definition;
- 13 (3) "Mental illness" means a diagnostic term that covers many clinical categories,
14 typically including behavioral or psychological symptoms, or both, along with
15 impairment of personal and social function, and specifically defined and clinically
16 interpreted through reference to criteria contained in the Diagnostic and Statistical
17 Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of
18 the American Psychiatric Association;
- 19 (4) "Individual with an intellectual disability" means a person with significantly
20 subaverage general intellectual functioning existing concurrently with deficits in
21 adaptive behavior and manifested during the developmental period, as defined in
22 KRS Chapter 202B;
- 23 (5) "Mentally incapacitated" means that a person is rendered temporarily incapable of
24 appraising or controlling his or her conduct as a result of the influence of an
25 intoxicating substance administered to him or her without his or her consent or as a
26 result of any other act committed upon him or her without his or her consent;
- 27 (6) "Physically helpless" means that a person is unconscious or for any other reason is

1 physically unable to communicate unwillingness to an act. "Physically helpless"
2 also includes a person who has been rendered unconscious or for any other reason is
3 physically unable to communicate an unwillingness to an act as a result of the
4 influence of a controlled substance, alcohol, or legend drug;

5 (7) "Sexual contact" means any touching of the sexual or other intimate parts of a
6 person done for the purpose of gratifying the sexual desire of either party;

7 (8) "Sexual intercourse" means sexual intercourse in its ordinary sense and includes
8 penetration of the sex organs of one person by any body part or a foreign object
9 manipulated by another person. Sexual intercourse occurs upon any penetration,
10 however slight; emission is not required. "Sexual intercourse" does not include
11 penetration of the sex organ by any body part or a foreign object in the course of the
12 performance of generally recognized health-care practices;

13 (9) "Foreign object" means anything used in commission of a sexual act other than the
14 person of the actor;

15 (10) "Registrant" has the same meaning as in KRS 17.500; and

16 (11) "Adult intermediary" means a person who is age eighteen (18) years or older, who
17 communicates with another for the purpose of procuring or promoting the use of a
18 minor in violation of KRS 510.155.

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

20 (1) A person is guilty of rape in the third degree when:

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

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

26 (c) Being twenty-one (21) years old or more, he or she engages in sexual
27 intercourse with another person less than eighteen (18) years old and for

1 whom he or she provides a foster family home as defined in KRS 600.020;

2 (d) Being a person in a position of authority or position of special trust, as defined
3 in KRS 532.045, he or she engages in sexual intercourse with a minor under
4 eighteen (18) years old with whom he or she comes into contact as a result of
5 that position;

6 (e) Being a jailer, or an employee, contractor, vendor, or volunteer of the
7 Department of Corrections, Department of Juvenile Justice, or a detention
8 facility as defined in KRS 520.010, or of an entity under contract with either
9 department or a detention facility for the custody, supervision, evaluation, or
10 treatment of offenders, he or she subjects a person who he or she knows is
11 incarcerated, supervised, evaluated, or treated by the Department of
12 Corrections, Department of Juvenile Justice, detention facility, or contracting
13 entity, to sexual intercourse;~~or~~

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

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

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

20 to sexual intercourse; or

21 **(g) He or she engages in sexual intercourse with another person knowing that**
22 **the other person's ability to appraise the nature of or control his or her own**
23 **conduct is substantially impaired.**

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

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

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

27 (a) Being twenty-one (21) years old or more, he or she engages in deviate sexual

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

- 1 *knowing that the other person's ability to appraise the nature of or control*
2 *his or her own conduct is substantially impaired.*
3 (2) Sodomy in the third degree is a Class D felony.