

1 AN ACT relating to sexual offenses.

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

3 ➔Section 1. KRS 510.010 is amended to read as follows:

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

- 5 (1) "Deviate sexual intercourse" means any act of sexual gratification involving the sex
6 organs of one person and the mouth or anus of another; or penetration of the anus of
7 one person by any body part or a foreign object manipulated by another person.
8 "Deviate sexual intercourse" does not include penetration of the anus by any body
9 part or a foreign object in the course of the performance of generally recognized
10 health-care practices;
- 11 (2) "Forcible compulsion" means physical force or threat of physical force, express or
12 implied, which places a person in fear of immediate death, physical injury to self or
13 another person, fear of the immediate kidnap of self or another person, or fear of
14 any offense under this chapter. Physical resistance on the part of the victim shall not
15 be necessary to meet this definition;
- 16 (3) "Mental illness" means a diagnostic term that covers many clinical categories,
17 typically including behavioral or psychological symptoms, or both, along with
18 impairment of personal and social function, and specifically defined and clinically
19 interpreted through reference to criteria contained in the Diagnostic and Statistical
20 Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of
21 the American Psychiatric Association;
- 22 (4) "Individual with an intellectual disability" means a person with significantly
23 subaverage general intellectual functioning existing concurrently with deficits in
24 adaptive behavior and manifested during the developmental period, as defined in
25 KRS Chapter 202B;
- 26 (5) "Mentally incapacitated" means that a person is rendered temporarily incapable of
27 appraising or controlling his or her conduct as a result of the influence of an

1 intoxicating substance administered to him or her without his or her consent or as a
2 result of any other act committed upon him or her without his or her consent;

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

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

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

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

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

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

22 ➔Section 2. KRS 510.060 is amended to read as follows:

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

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

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

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

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

2 ➔Section 3. KRS 510.090 is amended to read as follows:

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

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

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

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

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

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

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

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

- 1 2. Knew or should have known was under arrest, held in custody, or being
2 investigated for commission of a traffic or criminal offense;
3 to deviate sexual intercourse; or
4 (g) He or she engages in deviate sexual intercourse with another person
5 knowing or having reasonable cause to believe that the other person's
6 ability to appraise the nature of or control his or her own conduct is
7 substantially impaired because of a mental or physical condition or because
8 of advanced age.
- 9 (2) Sodomy in the third degree is a Class D felony.