

1 AN ACT relating to the protection of children.

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

3 ➔Section 1. KRS 15A.190 is amended to read as follows:

4 The Justice and Public Safety Cabinet, in consultation with the Cabinet for Health and  
5 Family Services, the Kentucky Commission on Women, and any other agency concerned  
6 with particular acts of criminal activity, shall:

7 (1) Design, print, and distribute to all law enforcement agencies in the Commonwealth,  
8 an electronic or paper uniform reporting form, to be known as the JC-3, which  
9 provides statistical information relating to the crimes involving:

10 **(a)** Domestic violence;~~;~~

11 **(b)** Child abuse;~~;~~

12 **(c)** ***Childhood sexual assault or abuse as defined in Section 3 of this Act;***

13 **(d)** Victimization of the elderly, including but not limited to elder abuse, neglect,  
14 and exploitation and other crimes against the elderly;~~;~~ or

15 **(e)** Any other particular area of criminal activity deemed by the secretary of  
16 justice and public safety to require research as to its frequency; and

17 (2) Promulgate administrative regulations, in accordance with KRS Chapter 13A, to  
18 provide that the information required in KRS 209A.122 be provided to the Criminal  
19 Justice Statistical Analysis Center.

20 ➔Section 2. KRS 17.500 is amended to read as follows:

21 As used in KRS 17.500 to 17.580:

22 (1) "Approved provider" means a mental health professional licensed or certified in  
23 Kentucky whose scope of practice includes providing mental health treatment  
24 services and who is approved by the Sex Offender Risk Assessment Advisory  
25 Board, under administrative regulations promulgated by the board, to provide  
26 comprehensive sex offender presentence evaluations or treatment to adults and  
27 youthful offenders, as defined in KRS 600.020;

- 1 (2) "Cabinet" means the Justice and Public Safety Cabinet;
- 2 (3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense  
3 against a victim who is a minor" means any of the following offenses if the  
4 victim is under the age of eighteen (18) at the time of the commission of the  
5 offense:
- 6 1. Kidnapping, as set forth in KRS 509.040, except by a parent;
  - 7 2. Unlawful imprisonment, as set forth in KRS 509.020, except by a  
8 parent;
  - 9 3. Sex crime;
  - 10 4. Promoting a sexual performance of a minor, as set forth in KRS  
11 531.320;
  - 12 5. Human trafficking involving commercial sexual activity, as set forth in  
13 KRS 529.100;
  - 14 6. Promoting human trafficking involving commercial sexual activity, as  
15 set forth in KRS 529.110;
  - 16 7. Promoting prostitution, as set forth in KRS 529.040, when the defendant  
17 advances or profits from the prostitution of a person under the age of  
18 eighteen (18);
  - 19 8. Use of a minor in a sexual performance, as set forth in KRS 531.310;
  - 20 9. Sexual abuse, as set forth in KRS 510.120 and 510.130;
  - 21 10. Unlawful transaction with a minor in the first degree, as set forth in KRS  
22 530.064(1)(a);
  - 23 11. Any offense involving a minor or depictions of a minor, as set forth in  
24 KRS Chapter 531;
  - 25 12. Any attempt to commit any of the offenses described in subparagraphs  
26 1. to 11. of this paragraph;
  - 27 13. Solicitation to commit any of the offenses described in subparagraphs 1.

1 to 11. of this paragraph; or

2 14. Any offense from another state or territory, any federal offense, or any  
3 offense subject to a court martial of the United States Armed Forces,  
4 which is similar to any of the offenses described in subparagraphs 1. to  
5 13. of this paragraph.

6 (b) Conduct which is criminal only because of the age of the victim shall not be  
7 considered a criminal offense against a victim who is a minor if the  
8 perpetrator was under the age of eighteen (18) at the time of the commission  
9 of the offense;

10 (4) "Law enforcement agency" means any lawfully organized investigative agency,  
11 sheriff's office, police unit, or police force of federal, state, county, urban-county  
12 government, charter county, city, consolidated local government, or a combination  
13 of these, responsible for the detection of crime and the enforcement of the general  
14 criminal federal or state laws;

15 (5) "Registrant" means:

16 (a) Any person eighteen (18) years of age or older at the time of the offense or  
17 any youthful offender, as defined in KRS 600.020, who has committed:

- 18 1. A sex crime; or
- 19 2. A criminal offense against a victim who is a minor; or

20 (b) Any person required to register under KRS 17.510; or

21 (c) Any sexually violent predator; or

22 (d) Any person whose sexual offense has been diverted pursuant to KRS 533.250,  
23 until the diversionary period is successfully completed;

24 (6) "Registrant information" means the name, including any lawful name change  
25 together with the previous name, Social Security number, age, race, sex, date of  
26 birth, height, weight, hair and eye color, fingerprints, palm prints, DNA sample, a  
27 photograph, aliases used, residence, motor vehicle operator's license number as well

1 as any other government-issued identification card numbers, if any, a brief  
2 description of the crime or crimes committed, and other information the cabinet  
3 determines, by administrative regulation, may be useful in the identification of  
4 registrants;

5 (7) "Residence" means any place where a person sleeps. For the purposes of this  
6 statute, a registrant may have more than one (1) residence. A registrant is required  
7 to register each residence address;

8 (8) "Sex crime" means:

9 (a) A felony offense defined in KRS Chapter 510, KRS 529.100 or 529.110  
10 involving commercial sexual activity, 530.020, 530.064(1)(a), 531.310,  
11 531.320, ~~or~~ 531.335, or Section 16 of this Act;

12 (b) A felony attempt to commit a felony offense specified in paragraph (a) of this  
13 subsection; or

14 (c) A federal felony offense, a felony offense subject to a court-martial of the  
15 United States Armed Forces, or a felony offense from another state or a  
16 territory where the felony offense is similar to a felony offense specified in  
17 paragraph (a) of this subsection;

18 (9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an  
19 Alford plea to a sex crime as defined in this section, as of the date the verdict is  
20 entered by the court;

21 (10) "Sexually violent predator" means any person who has been subjected to  
22 involuntary civil commitment as a sexually violent predator, or a similar  
23 designation, under a state, territory, or federal statutory scheme;

24 (11) "The board" means the Sex Offender Risk Assessment Advisory Board created  
25 under KRS 17.554;

26 (12) "Victim" has the same meaning as in KRS 421.500;

27 (13) "DNA sample" or "deoxyribonucleic acid sample" means a blood or swab specimen

1 from a person, as prescribed by administrative regulation, that is required to provide  
2 a DNA sample pursuant to KRS 17.170 or 17.510, that shall be submitted to the  
3 Department of Kentucky State Police forensic laboratory for law enforcement  
4 identification purposes and inclusion in law enforcement identification databases;  
5 and

6 (14) "Authorized personnel" means an agent of state government who is properly trained  
7 in DNA sample collection pursuant to administrative regulation.

8 ➔Section 3. KRS 413.249 is amended to read as follows:

9 (1) As used in this section:

10 (a) "Childhood sexual assault or abuse" means an act or series of acts against a  
11 person less than eighteen (18) years old and which meets the criteria defining  
12 a misdemeanor or felony in:

- 13 1. KRS Chapter 510;
- 14 2. KRS 529.040 when the defendant advances or profits from the  
15 prostitution of a minor;
- 16 3. KRS 529.100 when the offense involves commercial sexual activity;
- 17 4. KRS 529.110 when the offense involves commercial sexual activity;
- 18 5. KRS 530.020 or 530.064(1)(a);
- 19 6. KRS Chapter 531 involving a minor or depiction of a minor; or
- 20 7. KRS 506.010 or 506.030 for attempt to commit or solicitation to commit  
21 any of the offenses described in subparagraphs 1. to 6. of this paragraph.

22 No prior criminal prosecution or conviction of the civil defendant for the act  
23 or series of acts shall be required to bring a civil action for redress of  
24 childhood sexual assault or abuse;

25 (b) "Entity" means a firm, partnership, company, corporation, trustee, association,  
26 or any private or public entity, including the Commonwealth, a city, county,  
27 urban-county, consolidated local government, unified local government, or

1 charter county government, or any of their agencies, departments, or any KRS  
2 58.180 nonprofit nonstock corporation; and

3 (c) "Injury or illness" means either a physical or psychological injury or illness.

4 (2) A civil action for recovery of damages for injury or illness suffered as a result of  
5 childhood sexual assault or abuse **is not subject to a period of limitation and may**  
6 **be commenced at any time**~~[shall be brought before whichever of the following~~  
7 ~~periods last expires:~~

8 ~~(a) Within ten (10) years of the commission of the act or the last of a series of~~  
9 ~~acts by the same perpetrator;~~

10 ~~(b) Within ten (10) years of the date the victim knew, or should have known, of~~  
11 ~~the act;~~

12 ~~(c) Within ten (10) years after the victim attains the age of eighteen (18) years; or~~

13 ~~(d) Within ten (10) years of the conviction of a civil defendant for an offense~~  
14 ~~included in the definition of childhood sexual assault or abuse.~~

15 ~~(3) The time periods set forth in subsection (2) of This section shall apply to a civil~~  
16 ~~action for recovery of damages for injury or illness] against:[:]~~

17 (a) A person alleged to have committed the act of childhood sexual assault or  
18 abuse; or

19 (b) An entity that owed a duty of care to the plaintiff, where a wrongful or  
20 negligent act by an employee, officer, director, official, volunteer,  
21 representative, or agent of the entity was a legal cause of the childhood sexual  
22 assault or abuse that resulted in the injury to the plaintiff.

23 ~~(3)[(4)] [If a complaint is filed alleging that an act of childhood sexual assault or~~  
24 ~~abuse occurred more than ten (10) years prior to the date that the action is~~  
25 ~~commenced, ]The complaint shall be accompanied by a motion to seal the record~~  
26 ~~and the complaint shall immediately be sealed by the clerk of the court. The~~  
27 ~~complaint shall remain sealed until:~~

- 1 (a) The court rules upon the motion to seal;
- 2 (b) Any motion to dismiss under CR 12.02 is ruled upon, and if the complaint is  
3 dismissed, the complaint and any related papers or pleadings shall remain  
4 sealed unless opened by a higher court; or
- 5 (c) The defendant files an answer and a motion to seal the record upon grounds  
6 that a valid factual defense exists, to be raised in a motion for summary  
7 judgment pursuant to CR 56. The record shall remain sealed by the clerk until  
8 the court rules upon the defendant's motion to close the record. If the court  
9 grants the motion to close, the record shall remain sealed until the defendant's  
10 motion for summary judgment is granted. The complaint, motions, and other  
11 related papers or pleadings shall remain sealed unless opened by a higher  
12 court.

13 ~~(4)~~~~(5)~~ A victim of childhood sexual assault or abuse shall not have a cause of action  
14 against a third party, unless the third party failed to act as a reasonable person or  
15 entity in complying with their duties to the victim. ~~[If a victim of childhood sexual  
16 assault or abuse has a cause of action under this section, the cause of action shall be  
17 commenced within the time period set forth in subsection (2) of this section.]~~

18 ~~(5)~~~~(6)~~ (a) Neither the husband-wife nor any professional-client/patient privilege,  
19 except the attorney-client and clergy-penitent privilege, shall be a ground for  
20 excluding evidence regarding childhood sexual assault or abuse or the cause  
21 thereof when an exception to the Kentucky Rules of Evidence is met, in any  
22 judicial proceeding. This subsection shall also apply in any criminal  
23 proceeding in District or Circuit Court regarding childhood sexual assault or  
24 abuse.

25 (b) As used in paragraph (a) of this subsection, the clergy-penitent privilege is  
26 limited to information received solely through confidential communications  
27 with a clergy member, privately or in a confessional setting, when in the

1 course of the discipline or practice of the clergy member's church,  
 2 denomination, or organization, he or she is authorized or accustomed to  
 3 hearing those communications, and under the discipline, tenets, customs, or  
 4 practices of his or her church, denomination, or organization, has a duty to  
 5 keep those communications secret.

6 ~~(6)~~(7) (a) As was its intention with the passage of 2017 Ky. Acts ch. 114, sec. 2,  
 7 the General Assembly hereby states that the amendments enacted in 2017 Ky.  
 8 Acts ch. 114, sec. 2 shall be applied retroactively to actions accruing before its  
 9 effective date of June 29, 2017. This section is a remedial statute which is to  
 10 be given the most liberal interpretation to provide remedies for victims of  
 11 childhood sexual assault or abuse.

12 (b) Notwithstanding any provision of law to the contrary, any claim for childhood  
 13 sexual assault or abuse that was barred as of March 23, 2021, because the  
 14 applicable statute of limitations had expired is hereby revived, and the action  
 15 may be brought if commenced within five (5) years of the date on which the  
 16 applicable statute of limitations expired.

17 **(7) The provisions of subsection (2) of this section shall apply to any victim whose**  
 18 **statute of limitation has not run prior to the effective date of this Act.**

19 ➔Section 4. KRS 439.3401 is amended to read as follows:

20 (1) As used in this section, "violent offender" means any person who has been  
 21 convicted of or pled guilty to the commission of:

22 (a) A capital offense;

23 (b) A Class A felony;

24 (c) A Class B felony involving the death of the victim or serious physical injury  
 25 to a victim;

26 (d) An offense described in KRS 507.040 or 507.050 where the offense involves  
 27 the killing of a peace officer, firefighter, or emergency medical services

1 personnel while the peace officer, firefighter, or emergency medical services  
2 personnel was acting in the line of duty;

3 (e) A Class B felony involving criminal attempt to commit murder under KRS  
4 506.010 if the victim of the offense is a clearly identifiable peace officer,  
5 firefighter, or emergency medical services personnel acting in the line of duty,  
6 regardless of whether an injury results;

7 (f) The commission or attempted commission of a felony sexual offense  
8 described in KRS Chapter 510;

9 (g) Use of a minor in a sexual performance as described in KRS 531.310;

10 (h) Promoting a sexual performance by a minor as described in KRS 531.320;

11 (i) Unlawful transaction with a minor in the first degree as described in KRS  
12 530.064(1)(a);

13 (j) Human trafficking under KRS 529.100 involving commercial sexual activity  
14 where the victim is a minor;

15 (k) Criminal abuse in the first degree as described in KRS 508.100;

16 (l) Burglary in the first degree accompanied by the commission or attempted  
17 commission of an assault described in KRS 508.010, 508.020, 508.032, or  
18 508.060;

19 (m) Burglary in the first degree accompanied by commission or attempted  
20 commission of kidnapping as prohibited by KRS 509.040;

21 (n) Robbery in the first degree;~~[-or]~~

22 (o) Incest as described in KRS 530.020(2)(b) or (c);

23 **(p) Possession or viewing of matter portraying a sexual performance by a**  
24 **minor as described in KRS 531.335; or**

25 **(q) Distribution of matter portraying a sexual performance by a minor as**  
26 **described in Section 16 of this Act.**

27 The court shall designate in its judgment if the victim suffered death or serious

1 physical injury.

2 (2) A violent offender who has been convicted of a capital offense and who has  
3 received a life sentence (and has not been sentenced to twenty-five (25) years  
4 without parole or imprisonment for life without benefit of probation or parole), or a  
5 Class A felony and receives a life sentence, or to death and his or her sentence is  
6 commuted to a life sentence shall not be released on probation or parole until he or  
7 she has served at least twenty (20) years in the penitentiary. Violent offenders may  
8 have a greater minimum parole eligibility date than other offenders who receive  
9 longer sentences, including a sentence of life imprisonment.

10 (3) (a) A violent offender who has been convicted of a capital offense or Class A  
11 felony with a sentence of a term of years or Class B felony shall not be  
12 released on probation or parole until he or she has served at least eighty-five  
13 percent (85%) of the sentence imposed.

14 (b) A violent offender who has been convicted of a violation of KRS 507.040  
15 where the victim of the offense was clearly identifiable as a peace officer, a  
16 firefighter, or emergency medical services personnel, and the victim was  
17 acting in the line of duty shall not be released on probation or parole until he  
18 or she has served at least eighty-five percent (85%) of the sentence imposed.

19 (c) A violent offender who has been convicted of a violation of KRS 507.040 or  
20 507.050 where the victim of the offense was a peace officer, a firefighter, or  
21 emergency medical services personnel, and the victim was acting in the line  
22 of duty shall not be released on probation or parole until he or she has served  
23 at least fifty percent (50%) of the sentence imposed.

24 (d) Any offender who has been convicted of a homicide or fetal homicide offense  
25 under KRS Chapter 507 or 507A in which the victim of the offense died as  
26 the result of an overdose of a Schedule I controlled substance and who is not  
27 otherwise subject to paragraph (a), (b), or (c) of this subsection shall not be

1 released on probation, shock probation, parole, conditional discharge, or other  
2 form of early release until he or she has served at least fifty percent (50%) of  
3 the sentence imposed.

4 (4) A violent offender shall not be awarded any credit on his or her sentence authorized  
5 by KRS 197.045(1)(b)1. In no event shall a violent offender be given credit on his  
6 or her sentence if the credit reduces the term of imprisonment to less than eighty-  
7 five percent (85%) of the sentence.

8 (5) This section shall not apply to a person who has been determined by a court to have  
9 been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard  
10 to the offenses involving the death of the victim or serious physical injury to the  
11 victim. The provisions of this subsection shall not extend to rape in the first degree  
12 or sodomy in the first degree by the defendant.

13 (6) This section shall apply only to those persons who commit offenses after July 15,  
14 1998.

15 (7) For offenses committed prior to July 15, 1998, the version of this statute in effect  
16 immediately prior to that date shall continue to apply.

17 (8) The provisions of subsection (1) of this section extending the definition of "violent  
18 offender" to persons convicted of or pleading guilty to robbery in the first degree  
19 shall apply only to persons whose crime was committed after July 15, 2002.

20 ➔Section 5. KRS 510.060 is amended to read as follows:

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

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

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

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

1 intercourse with another person less than eighteen (18) years old and for  
2 whom he or she provides a foster family home as defined in KRS 600.020;

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

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

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

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

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

21 to sexual intercourse.

22 (2) Rape in the third degree is a Class D felony, *unless it is a violation of subsection*  
23 *(1)(d) of this section and the victim is less than twelve (12) years old, in which*  
24 *case it is a Class C felony.*

25 ➔Section 6. 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.
- 27 (2) Sodomy in the third degree is a Class D felony, unless it is a violation of

1 subsection (1)(d) of this section and the victim is less than twelve (12) years old,  
2 in which case it is a Class C felony.

3 ➔Section 7. KRS 510.155 is amended to read as follows:

4 (1) It shall be unlawful for any person to knowingly use a communications system,  
5 including computers, computer networks, computer bulletin boards, cellular  
6 telephones, or any other electronic means, for the purpose of:

7 (a) Procuring or promoting the use of a minor, including a peace officer, or a  
8 person working in coordination with law enforcement, posing as a minor if  
9 the person believes that the peace officer or the person working in  
10 coordination with law enforcement is a minor or is wanton or reckless in that  
11 belief; ~~or~~

12 (b) Procuring or promoting the use of a minor from an adult intermediary,  
13 including a peace officer, or a person working in coordination with law  
14 enforcement, posing as an adult intermediary for a minor if the person  
15 believes that the peace officer or the person working in coordination with law  
16 enforcement is an adult intermediary for a minor or is wanton or reckless in  
17 that belief;

18 for any activity in violation of KRS 510.040, 510.050, 510.060, 510.070, 510.080,  
19 510.090, 510.110, 529.100 where that offense involves commercial sexual activity,  
20 or 530.064(1)(a), or KRS Chapter 531.

21 (2) No person shall be convicted of this offense and an offense specified in KRS  
22 506.010, 506.030, 506.040, or 506.080 for a single course of conduct intended to  
23 consummate in the commission of the same offense with the same minor or peace  
24 officer.

25 (3) Each day a person knowingly uses a communications system for the purpose of  
26 procuring or promoting the use of a minor shall be a separate violation of this  
27 section.

- 1 (4) The solicitation of a minor through electronic communication under subsection (1)  
 2 of this section shall be prima facie evidence of the person's intent to commit the  
 3 offense, and the offense is complete at that point without regard to whether the  
 4 person met or attempted to meet the minor.
- 5 (5) This section shall apply to electronic communications originating within or received  
 6 within the Commonwealth.
- 7 (6) Except as provided in subsection (7) of this section, a violation of this section is  
 8 punishable as a **Class C**~~Class D~~ felony.
- 9 (7) A violation of this section is punishable as a **Class B**~~Class C~~ felony if:
- 10 (a) The minor or perceived minor procured or promoted is under twelve (12)  
 11 years old;
- 12 (b) **The offender is a person in a position of authority or position of special**  
 13 **trust as those terms are defined in KRS 532.045;**
- 14 (c) The offender is a registrant; or
- 15 (d)~~(e)~~ A person enters into the Commonwealth from another jurisdiction for  
 16 the purpose of procuring or promoting the use of a minor or perceived minor  
 17 in violation of this section.
- 18 ➔Section 8. KRS 529.100 is amended to read as follows:
- 19 (1) A person is guilty of human trafficking when the person intentionally subjects one  
 20 (1) or more persons to engage in:
- 21 (a) Forced labor or services; or
- 22 (b) Commercial sexual activity through the use of force, fraud, or coercion,  
 23 except that if the person is under the age of eighteen (18), the commercial  
 24 sexual activity need not involve force, fraud, or coercion.
- 25 (2) ~~{(a)}~~ Human trafficking is a **Class B**~~Class C~~ felony unless ~~{it involves serious~~  
 26 ~~physical injury to a trafficked person, in which case it is a Class B felony.~~
- 27 (b) ~~If~~ the victim of human trafficking is under eighteen (18) years of age, **in**

1                    *which case it is a Class A felony*~~[the penalty for the offense shall be one (1)~~  
2                    ~~level higher than the level otherwise specified in this section].~~

3                    ➔Section 9. KRS 529.110 is amended to read as follows:

- 4                    (1) A person is guilty of promoting human trafficking when the person intentionally:
- 5                    (a) Benefits financially or receives anything of value from knowing participation
- 6                    in human trafficking; or
- 7                    (b) Recruits, entices, harbors, transports, provides, or obtains by any means, or
- 8                    attempts to recruit, entice, harbor, transport, provide, or obtain by any means,
- 9                    another person, knowing that the person will be subject to human trafficking.
- 10                  (2) Promoting human trafficking is a *Class C*~~[Class D]~~ felony unless a victim of the
- 11                  trafficking is under eighteen (18), in which case it is a *Class B*~~[Class C]~~ felony.

12                  ➔Section 10. KRS 531.010 is amended to read as follows:

13                  As used in this chapter:

- 14                  (1) "Distribute" means to transfer possession of, whether with or without
- 15                  consideration;~~[-]~~
- 16                  (2) "Matter" means any:
- 17                  (a) Book, magazine, newspaper, or other printed or written material;~~[- or any]~~
- 18                  (b) Picture, drawing, photograph, motion picture, live image transmitted over the
- 19                  internet~~[Internet]~~ or other electronic network, or other pictorial representation
- 20                  or any statue or other figure;~~[- or any]~~
- 21                  (c) Recording; transcription; or mechanical, chemical, or electrical reproduction;
- 22                  or any other articles, equipment, machines, or materials; or~~[-]~~
- 23                  (d) *Computer-generated image, picture, or motion picture;*
- 24                  (3) "Obscene" means:
- 25                  (a) To the average person, applying contemporary community standards, the
- 26                  predominant appeal of the matter, taken as a whole, is to prurient interest in
- 27                  sexual conduct;~~[- and]~~

1 (b) The matter depicts or describes the sexual conduct in a patently offensive  
2 way; and

3 (c) The matter, taken as a whole, lacks serious literary, artistic, political, or  
4 scientific value;[-]

5 (4) "Private erotic matter" means an obscene visual image, including a photograph,  
6 film, video recording, or digital reproduction, of an identifiable person, depicting  
7 sexual conduct or the exposure of uncovered human genitals, buttocks, or nipple of  
8 the female breast. A person may be identifiable from the image itself or from  
9 information distributed in connection with the visual image; **and**[-]

10 (5) "Sexual conduct" means acts of masturbation, homosexuality, lesbianism, bestiality,  
11 sexual intercourse, or **deviate**[~~deviant~~] sexual intercourse; or physical contact with  
12 the genitals, flagellation, or excretion for the purpose of sexual stimulation or  
13 gratification.

14 ➔Section 11. KRS 531.300 is amended to read as follows:

15 As used in KRS 531.080 and 531.310 to 531.370:

16 (1) **"Child sex doll" means a doll, mannequin, or robot that is intended for sexual**  
17 **stimulation or gratification and that has the features of, or has features that**  
18 **resemble those of, a minor**[~~"Distribute" means to transfer possession of, whether~~  
19 ~~with or without consideration;~~

20 ~~(2) "Matter" means any book, magazine, newspaper, or other printed or written~~  
21 ~~material or any picture, drawing, photograph, motion picture, live image transmitted~~  
22 ~~over the Internet or other electronic network, or other pictorial representation or any~~  
23 ~~statue or other figure, or any recording transcription or mechanical, chemical or~~  
24 ~~electrical reproduction or any other articles, equipment, machines, or materials];~~

25 ~~(2)~~[~~(3)~~] "Obscene" means the predominate appeal of the matter taken as a whole is to  
26 a prurient interest in sexual conduct involving minors;

27 **(3) "Performance" means any play, motion picture, photograph, dance, or any other**

1 *visual representation exhibited before an audience;*

2 *(4) "Promote" means to prepare, publish, print, procure or manufacture, or to offer*  
 3 *or agree to do the same;*

4 ~~(5)~~<sup>(4)</sup> "Sexual conduct by a minor" means:

5 (a) Acts of masturbation, homosexuality, lesbianism, *bestiality*~~[bestiality]~~,  
 6 sexual intercourse, or *deviate*~~[deviant]~~ sexual intercourse, actual or simulated;

7 (b) Physical contact with, or willful or intentional exhibition of the genitals;

8 (c) Flagellation or excretion for the purpose of sexual stimulation or gratification;  
 9 or

10 (d) The exposure, in an obscene manner, of the unclothed or apparently unclothed  
 11 human male or female genitals, pubic area or buttocks, or the female breast,  
 12 whether or not subsequently obscured by a mark placed thereon, or otherwise  
 13 altered, in any resulting motion picture, photograph, or other visual  
 14 representation, exclusive of exposure portrayed in matter of a private, family  
 15 nature not intended for distribution outside the family;{

16 ~~(5) "Performance" means any play, motion picture, photograph or dance. Performance~~  
 17 ~~also means any other visual representation exhibited before an audience;}~~

18 (6) "Sexual performance" means any performance or part thereof which includes sexual  
 19 conduct by a minor; and

20 (7) *"Traffic" means to manufacture, distribute, sell, transfer, or possess with intent*  
 21 *to manufacture, distribute, sell, or transfer*~~["Promote" means to prepare, publish,~~  
 22 ~~print, procure or manufacture, or to offer or agree to do the same].~~

23 ➔SECTION 12. A NEW SECTION OF KRS 531.310 TO 531.370 IS CREATED  
 24 TO READ AS FOLLOWS:

25 *(1) A person is guilty of possession of a child sex doll when he or she knowingly*  
 26 *possesses a child sex doll.*

27 *(2) Possession of a child sex doll is a Class D felony.*

1           ➔SECTION 13. A NEW SECTION OF KRS 531.310 TO 531.370 IS CREATED  
2 TO READ AS FOLLOWS:

3 **(1) A person is guilty of trafficking a child sex doll when he or she knowingly traffics**  
4 **a child sex doll.**

5 **(2) Trafficking a child sex doll is a Class C felony.**

6           ➔SECTION 14. A NEW SECTION OF KRS 531.310 TO 531.370 IS CREATED  
7 TO READ AS FOLLOWS:

8 **(1) A person is guilty of importing a child sex doll when he or she knowingly**  
9 **transports a child sex doll into the Commonwealth by any means with the intent**  
10 **to distribute, sell, or transfer the child sex doll.**

11 **(2) Importing a child sex doll is a Class C felony.**

12           ➔SECTION 15. A NEW SECTION OF KRS 531.310 TO 531.370 IS CREATED  
13 TO READ AS FOLLOWS:

14 **(1) A person is guilty of advancing a child sex doll when he or she knowingly**  
15 **procures or solicits patrons for a child sex doll or provides premises for the use of**  
16 **a child sex doll.**

17 **(2) Advancing a child sex doll is a Class C felony.**

18           ➔Section 16. KRS 531.340 is amended to read as follows:

19 (1) A person is guilty of distribution of matter portraying a sexual performance by a  
20 minor when, having knowledge of its content and character, he or she:

21 (a) Sends or causes to be sent into this state for sale or distribution;~~{or}~~

22 (b) Brings or causes to be brought into this state for sale or distribution; or

23 (c) In this state, he or she:

24 1. Exhibits for profit or gain;~~{or}~~

25 2. Distributes;~~{or}~~

26 3. Offers to distribute; or

27 4. Has in his or her possession with intent to distribute, exhibit for profit or

1           gain or offer to distribute, any matter portraying a sexual performance  
2           by a minor.

3       (2) Any person who has in his or her possession more than one (1) unit of ***matter, as***  
4       ***defined by subsection (2) of Section 10 of this Act,***~~material coming within the~~  
5       ~~provision of KRS 531.300(2)]~~ shall be rebuttably presumed to have ***that***  
6       ***matter***~~[such material]~~ in his or her possession with the intent to distribute it.

7       (3) Distribution of matter portraying a sexual performance by a minor is:

8       (a) A ~~[Class D felony for the first offense, and a ]~~Class C felony ~~[for each~~  
9       ~~subsequent offense, ]~~if the person knows that the minor portrayed is less than  
10       eighteen (18) years old at the time of the sexual performance; and

11       (b) A ~~[Class C felony for the first offense, and a ]~~Class B felony ~~[for each~~  
12       ~~subsequent offense, ]~~if the person knows that the minor portrayed is less than  
13       twelve (12) years old at the time of the sexual performance.

14       ➔Section 17. KRS 532.060 is amended to read as follows:

15       (1) A sentence of imprisonment for a felony shall be an indeterminate sentence, the  
16       maximum of which shall be fixed within the limits provided by subsection (2) ***of***  
17       ***this section,*** and subject to modification by the trial judge pursuant to KRS  
18       532.070.

19       (2) Unless otherwise provided by law, the authorized maximum terms of imprisonment  
20       for felonies are:

21       (a) For a Class A felony, not less than twenty (20) years nor more than fifty (50)  
22       years, or life imprisonment;

23       (b) For a Class B felony, not less than ten (10) years nor more than twenty (20)  
24       years;

25       (c) For a Class C felony, not less than five (5) years nor more than ten (10) years;  
26       and

27       (d) For a Class D felony, not less than one (1) year nor more than five (5) years.

- 1 (3) For any felony specified in KRS Chapter 510 ~~or~~ KRS 529.100, 529.110, 530.020,  
2 530.064(1)(a), ~~or~~ 531.310, 531.320, 531.335, or 531.340, the sentence shall  
3 include an additional five (5) year period of postincarceration supervision which  
4 shall be added to the maximum sentence rendered for the offense. During this  
5 period of postincarceration supervision, if a defendant violates the provisions of  
6 postincarceration supervision, the defendant may be reincarcerated for:
- 7 (a) The remaining period of his or her initial sentence, if any is remaining; and  
8 (b) The entire period of postincarceration supervision, or if the initial sentence  
9 has been served, for the remaining period of postincarceration supervision.
- 10 (4) In addition to the penalties provided in this section, for any person subject to a  
11 period of postincarceration supervision pursuant to KRS 532.400 his or her  
12 sentence shall include an additional one (1) year period of postincarceration  
13 supervision following release from incarceration upon expiration of sentence if the  
14 offender is not otherwise subject to another form of postincarceration supervision.  
15 During this period of postincarceration supervision, if an offender violates the  
16 provisions of supervision, the offender may be reincarcerated for the remaining  
17 period of his or her postincarceration supervision.
- 18 (5) The actual time of release within the maximum established by subsection (1) of this  
19 section, or as modified pursuant to KRS 532.070, shall be determined under  
20 procedures established elsewhere by law.
- 21 ➔Section 18. KRS 532.200 is amended to read as follows:
- 22 As used in KRS 532.210 to 532.250, unless the context otherwise requires:
- 23 (1) "Home" means the temporary or permanent residence of a defendant consisting of  
24 the actual living area. If more than one (1) residence or family is located on a single  
25 piece of property, "home" does not include the residence of any other person who is  
26 not part of the social unit formed by the defendant's immediate family. A hospital,  
27 nursing care facility, hospice, half-way house, group home, residential treatment

1 facility, or boarding house may serve as a "home" under this section;

2 (2) "Home incarceration" means the use of a monitoring device approved by the  
3 commissioner of the Department of Corrections to facilitate a prisoner's ability to  
4 maintain gainful employment or to participate in programs approved as a condition  
5 of his or her incarceration, or both, using the person's home for purposes of  
6 confinement;

7 (3) "Violent felony offense" means an offense **that would classify a person as a violent**  
8 **offender under Section 4 of this Act**~~[defined in KRS 507.020 (murder), 507.030~~  
9 ~~(manslaughter in the first degree), 508.010 (assault in the first degree), 508.020~~  
10 ~~(assault in the second degree), 509.040 (kidnapping), 510.040 (rape in the first~~  
11 ~~degree), 510.070 (sodomy in the first degree), 510.110 (sexual abuse in the first~~  
12 ~~degree), 511.020 (burglary in the first degree), 513.020 (arson in the first degree),~~  
13 ~~513.030 (arson in the second degree), 513.040 (arson in the third degree), 515.020~~  
14 ~~(robbery in the first degree), 515.030 (robbery in the second degree), 520.020~~  
15 ~~(escape in the first degree), any criminal attempt to commit the offense (KRS~~  
16 ~~506.010), or conviction as a persistent felony offender (KRS 532.080) when the~~  
17 ~~offender has a felony conviction for any of the above listed offenses within the five~~  
18 ~~(5) year period preceding the date of the latest conviction];~~

19 (4) "Terminal illness" means a medically recognized disease for which the prognosis is  
20 death within six (6) months to a reasonable degree of medical certainty; and

21 (5) "Approved monitoring device" means an electronic device or apparatus which is  
22 capable of recording, tracking, or transmitting information as to the prisoner's  
23 location or verifying the prisoner's presence or non-presence in the home, or both.  
24 The devices shall be minimally intrusive. Devices shall not be used without the  
25 prisoner's knowledge to record or transmit:

26 (a) Visual images other than the defendant's face;

27 (b) Oral or wire communications or any auditory sound other than the defendant's

- 1 voice; or
- 2 (c) Information as to the prisoner's activities while inside the home.