

1 AN ACT relating to sodomy.

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 government
- 8 for all or part of a day, whether free or for a fee, for five (5) or more children under
- 9 eighteen (18) years of age outside the presence of their parent or guardian for
- 10 recreational or educational purposes for four (4) or more consecutive hours per day
- 11 during school vacation periods, school breaks, or school cancellations;
- 12 (4) "Sex crime" means a conviction or a plea of guilty to any of the following offenses:
- 13 (a) Rape in the first degree as in KRS 510.040;
- 14 (b) Rape in the second degree as in KRS 510.050;
- 15 (c) Rape in the third degree as in KRS 510.060;
- 16 (d) Sodomy in the first degree as in KRS 510.070;
- 17 (e) Sodomy in the second degree as in KRS 510.080;
- 18 (f) Sodomy in the third degree as in KRS 510.090;
- 19 (g) ~~Sodomy in the fourth degree as in KRS 510.100;~~
- 20 ~~(h)~~ Sexual abuse in the first degree as in KRS 510.110;
- 21 (h)~~(i)~~ Sexual abuse in the second degree as in KRS 510.120;
- 22 (i)~~(j)~~ Sexual abuse in the third degree as in KRS 510.130;
- 23 (j)~~(k)~~ Indecent exposure in the first degree as in KRS 510.148;
- 24 (k)~~(l)~~ Indecent exposure in the second degree as in KRS 510.150;
- 25 (l)~~(m)~~ Unlawful use of electronic means originating or received within the
- 26 Commonwealth to induce a minor to engage in sexual or other prohibited
- 27 activities as in KRS 510.155; or

1 ~~(m)(n)~~ Incest as in KRS 530.020;

2 (5) "Staff member" means:

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

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

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

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

17 (7) "Youth camp" or "camp" means:

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

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

24 ➔Section 2. KRS 532.031 is amended to read as follows:

25 (1) A person may be found by the sentencing judge to have committed an offense
26 specified below as a result of a hate crime if the person intentionally because of
27 race, color, religion, sexual orientation, or national origin of another individual or

1 group of individuals or because of a person's actual or perceived employment as a
2 state, city, county, or federal peace officer, member of an organized fire
3 department, or emergency medical services personnel, violates a provision of any
4 one (1) of the following:

- 5 (a) KRS 508.010, 508.020, 508.025, or 508.030;
- 6 (b) KRS 508.050 or 508.060;
- 7 (c) KRS 508.100 or 508.110;
- 8 (d) KRS 509.020;
- 9 (e) KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090,~~510.100,~~ or
10 510.110;
- 11 (f) KRS 512.020, 512.050, or 512.060;
- 12 (g) KRS 513.020, 513.030, or 513.040; or
- 13 (h) KRS 525.020, 525.050, 525.060, 525.070, or 525.080.

14 (2) At sentencing, the sentencing judge shall determine if, by a preponderance of the
15 evidence presented at the trial, a hate crime was a primary factor in the commission
16 of the crime by the defendant. If so, the judge shall make a written finding of fact
17 and enter that in the court record and in the judgment rendered against the
18 defendant.

19 (3) The finding that a hate crime was a primary factor in the commission of the crime
20 by the defendant may be utilized by the sentencing judge as the sole factor for
21 denial of probation, shock probation, conditional discharge, or other form of
22 nonimposition of a sentence of incarceration.

23 (4) The finding by the sentencing judge that a hate crime was a primary factor in the
24 commission of the crime by the defendant may be utilized by the Parole Board in
25 delaying or denying parole to a defendant.

26 (5) As used in this section:

27 (a) "Emergency medical services personnel" has the same meaning as in KRS

1 311A.010; and

2 (b) "Member of an organized fire department, or emergency medical services
3 personnel" includes volunteers, if the violation occurs while the volunteer is
4 performing duties with an organized fire department or as emergency medical
5 services personnel.

6 ➔Section 3. The following KRS section is repealed:

7 510.100 Sodomy in the fourth degree.