

1 AN ACT relating to sex crimes.

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

3 ➔Section 1. KRS 510.060 is amended to read as follows:

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

1 criminal offense; or

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

4 ~~[to sexual intercourse]~~

5 **(g) He or she engages in sexual intercourse with another person who is**  
6 **incarcerated by the Department of Corrections, Department of Juvenile**  
7 **Justice, or a detention facility;**

8 **(h) Being a Commonwealth's attorney or assistant Commonwealth's attorney,**  
9 **or a county attorney or assistant county attorney, he or she engages in**  
10 **sexual intercourse with another person who the attorney is prosecuting for**  
11 **criminal offense, unless a prior sexual relationship exists; or**

12 **(i) Being an attorney for a criminal defendant, he or she engages in sexual**  
13 **intercourse with the criminal defendant, unless a prior sexual relationship**  
14 **exists.**

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

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

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

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

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

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

26 (d) Being a person in a position of authority or position of special trust, as defined  
27 in KRS 532.045, he or she engages in deviate sexual intercourse with a minor

1 less than eighteen (18) years old with whom he or she comes into contact as a  
2 result of that position;

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

12 (f) Being a peace officer, while serving in his or her official capacity, he or she  
13 **engages in deviate sexual intercourse with**~~subjects~~ a person who the  
14 officer:

- 15 1. Arrested, held in custody, or investigated for commission of a traffic or  
16 criminal offense; or
- 17 2. Knew or should have known was under arrest, held in custody, or being  
18 investigated for commission of a traffic or criminal offense;  
19 ~~[to deviate sexual intercourse]~~

20 **(g) He or she engages in deviate sexual intercourse with another person who is**  
21 **incarcerated by the Department of Corrections, Department of Juvenile**  
22 **Justice, or a detention facility;**

23 **(h) Being a Commonwealth's attorney or assistant Commonwealth's attorney,**  
24 **or a county attorney or assistant county attorney, he or she engages in**  
25 **deviate sexual intercourse with another person who the attorney is**  
26 **prosecuting for criminal offense, unless a prior sexual relationship exists;**  
27 **or**



- 1        (e) Being a Commonwealth's attorney or assistant Commonwealth's attorney,  
2        or a county attorney or assistant county attorney, he or she subjects another  
3        person who the attorney is prosecuting for criminal offense to sexual  
4        contact, unless a prior sexual relationship exists; or  
5        (f) Being an attorney for a criminal defendant, he or she subjects the criminal  
6        defendant to sexual contact, unless a prior sexual relationship exists.

- 7        (2) In any prosecution under subsection (1)(a) of this section, it is a defense that:  
8        (a) The other person's lack of consent was due solely to incapacity to consent by  
9        reason of being less than sixteen (16) years old; and  
10       (b) The other person was at least fourteen (14) years old; and  
11       (c) The actor was less than five (5) years older than the other person.  
12       (3) Sexual abuse in the second degree is a Class A misdemeanor.