

1 AN ACT relating to sexual offenses by peace officers.

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;~~or~~

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 subjects a person who he or she knows is  
22 incarcerated, supervised, evaluated, or treated by the Department of  
23 Corrections, Department of Juvenile Justice, detention facility, or contracting  
24 entity, to sexual intercourse; or

25 **(f) *Being a peace officer, he or she subjects a person who he or she:***

26 **1. *Arrested or otherwise held in custody; or***

27 **2. *Knew or should have known was under arrest or otherwise being held***

1                            *in custody;*  
2                            *to sexual intercourse.*

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

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

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

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

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

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

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

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

26        *(f) Being a peace officer, he or she subjects a person who he or she:*

27                            *1. Arrested or otherwise held in custody; or*

1                    **2. Knew or should have known was under arrest or otherwise being held**  
 2                    **in custody;**  
 3                    **to deviate sexual intercourse.**

4 (2) Sodomy in the third degree is a Class D felony.

5                    ➔Section 3. KRS 510.120 is amended to read as follows:

6 (1) A person is guilty of sexual abuse in the second degree when:

7 (a) He or she is at least eighteen (18) years old but less than twenty-one (21) years  
 8 old and subjects another person who is less than sixteen (16) years old to  
 9 sexual contact;~~[-or]~~

10 (b) Being a jailer, or an employee, contractor, vendor, or volunteer of the  
 11 Department of Corrections, Department of Juvenile Justice, or a detention  
 12 facility as defined in KRS 520.010, or of an entity under contract with either  
 13 department or a detention facility for the custody, supervision, evaluation, or  
 14 treatment of offenders, he or she subjects a person who is at least eighteen  
 15 (18) years old and who he or she knows is incarcerated, supervised, evaluated,  
 16 or treated by the Department of Corrections, Department of Juvenile Justice,  
 17 detention facility, or contracting entity, to sexual contact; **or**

18 **(c) Being a peace officer, he or she subjects a person who he or she:**

19                    **1. Arrested or otherwise held in custody; or**

20                    **2. Knew or should have known was under arrest or otherwise being held**  
 21                    **in custody;**  
 22                    **to sexual contact.**

23 (2) In any prosecution under subsection (1)(a) of this section, it is a defense that:

24 (a) The other person's lack of consent was due solely to incapacity to consent by  
 25 reason of being less than sixteen (16) years old; and

26 (b) The other person was at least fourteen (14) years old; and

27 (c) The actor was less than five (5) years older than the other person.

- 1 (3) Sexual abuse in the second degree is a Class A misdemeanor.