

CHAPTER 34

(SB 119)

AN ACT relating to sex offenses.

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

➔Section 1. KRS 403.720 is amended to read as follows:

As used in KRS 403.715 to 403.785:

- (1) "Domestic animal" means a dog, cat, or other animal that is domesticated and kept as a household pet, but does not include animals normally raised for agricultural or commercial purposes;
- (2) "Domestic violence and abuse" means:
 - (a) Physical injury, serious physical injury, stalking, sexual ~~assault[abuse]~~, strangulation, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual ~~assault[abuse]~~, strangulation, or assault between family members or members of an unmarried couple; or
 - (b) Any conduct prohibited by KRS 525.125, 525.130, 525.135, or 525.137, or the infliction of fear of such imminent conduct, taken against a domestic animal when used as a method of coercion, control, punishment, intimidation, or revenge directed against a family member or member of an unmarried couple who has a close bond of affection to the domestic animal;
- (3) "Family member" means a spouse, including a former spouse, a grandparent, a grandchild, a parent, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim;
- (4) "Foreign protective order" means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 that was issued on the basis of domestic violence and abuse;
- (5) "Global positioning monitoring system" means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;
- (6) "Member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together;
- (7) "Order of protection" means an emergency protective order or a domestic violence order and includes a foreign protective order;
- (8) ***"Sexual assault" refers to conduct prohibited as any degree of rape, sodomy, or sexual abuse under KRS Chapter 510 or incest under KRS 530.020, or a criminal attempt, conspiracy, facilitation, or solicitation to commit rape, sodomy, sexual abuse, or incest;***
- (9) "Strangulation" refers to conduct prohibited by KRS 508.170 and 508.175, or a criminal attempt, conspiracy, facilitation, or solicitation to commit the crime of strangulation; and
- ~~(10)(9)~~ "Substantial violation" means criminal conduct which involves actual or threatened harm to the person, family, or property, including a domestic animal, of an individual protected by an order of protection.

➔Section 2. KRS 510.010 is amended to read as follows:

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

- (1) "Deviate sexual intercourse" means any act of sexual gratification involving the sex organs of one person and the mouth or anus of another; or penetration of the anus of one person by any body part or a foreign object manipulated by another person. "Deviate sexual intercourse" does not include penetration of the anus by any body part or a foreign object in the course of the performance of generally recognized health-care practices;
- (2) "Forcible compulsion" means physical force or threat of physical force, express or implied, which places a person in fear of immediate death, physical injury to self or another person, fear of the immediate kidnap of self or another person, or fear of any offense under this chapter. Physical resistance on the part of the victim shall not be necessary to meet this definition;

- (3) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association;
- (4) "Individual with an intellectual disability" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, as defined in KRS Chapter 202B;
- (5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct as a result of the influence of an intoxicating substance administered to him or her without his or her consent or as a result of any other act committed upon him or her without his or her consent;
- (6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act. "Physically helpless" also includes a person who has been rendered unconscious or for any other reason is physically unable to communicate an unwillingness to an act as a result of the influence of a controlled substance or legend drug;
- (7) "Sexual contact" ***means the touching of a person's intimate parts or the touching of the clothing or other material intended to cover the immediate area of a person's intimate parts, if that touching can be construed by a reasonable person as being done:***
- (a) ***For the purpose of sexual arousal or gratification of either party;***
 - (b) ***For a sexual purpose; or***
 - (c) ***In a sexual manner for the purpose of:***
 1. ***Exacting revenge or retribution;***
 2. ***Humiliating or degrading; or***
 3. ***Punishment***~~means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party;~~
- (8) "Sexual intercourse" means sexual intercourse in its ordinary sense and includes penetration of the sex organs of one person by any body part or a foreign object manipulated by another person. Sexual intercourse occurs upon any penetration, however slight; emission is not required. "Sexual intercourse" does not include penetration of the sex organ by any body part or a foreign object in the course of the performance of generally recognized health-care practices;
- (9) "Foreign object" means anything used in commission of a sexual act other than the person of the actor;
- (10) "Registrant" has the same meaning as in KRS 17.500; and
- (11) "Adult intermediary" means a person who is age eighteen (18) years or older, who communicates with another for the purpose of procuring or promoting the use of a minor in violation of KRS 510.155.

Signed by Governor March 20, 2023.