

1 AN ACT relating to youth camps.

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) "Sex crime" means a conviction or a plea of guilty to any of the following offenses:
- 6 (a) Rape in the first degree as in KRS 510.040;
- 7 (b) Rape in the second degree as in KRS 510.050;
- 8 (c) Rape in the third degree as in KRS 510.060;
- 9 (d) Sodomy in the first degree as in KRS 510.070;
- 10 (e) Sodomy in the second degree as in KRS 510.080;
- 11 (f) Sodomy in the third degree as in KRS 510.090;
- 12 (g) Sodomy in the fourth degree as in KRS 510.100;
- 13 (h) Sexual abuse in the first degree as in KRS 510.110;
- 14 (i) Sexual abuse in the second degree as in KRS 510.120;
- 15 (j) Sexual abuse in the third degree as in KRS 510.130;
- 16 (k) Indecent exposure in the first degree as in KRS 510.148;
- 17 (l) Indecent exposure in the second degree as in KRS 510.150;
- 18 (m) Unlawful use of electronic means originating or received within the
19 Commonwealth to induce a minor to engage in sexual or other prohibited
20 activities as in KRS 510.155; or
- 21 (n) Incest as in KRS 530.020;
- 22 (3) **"Staff member" means:**
- 23 **(a) An individual who is employed by a youth camp or camp for compensation;**
- 24 **(b) A contract employee or a self-employed individual whose employment**
25 **directly involves the care or supervision of children or unsupervised access**
26 **to children placed with a youth camp or camp; or**
- 27 **(c) A volunteer or intern whose activities on behalf of a youth camp or camp**

1 *directly involves the care or supervision of children or unsupervised access*
 2 *to children placed with a youth camp or camp.*

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

7 **(5)**~~(4)~~ "Youth camp" or "camp" means:

8 (a) Any camp required pursuant to KRS 211.180 to obtain a permit to operate;
 9 and

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

14 ➔Section 2. KRS 194A.382 is amended to read as follows:

15 (1) A youth camp that receives public funds shall not employ, contract, or utilize as a
 16 volunteer, in any position, any *staff member*~~person~~ who has been convicted of or
 17 who has entered a plea of guilty to a criminal offense against a minor or a sex crime,
 18 who is a violent offender, or who has been found by the Cabinet for Health and
 19 Family Services or a court to have abused or neglected a child.

20 (2) Prior to employing, contracting with, or allowing volunteer work, each youth camp
 21 that receives public funds shall obtain from the Justice and Public Safety Cabinet a
 22 national and state criminal background check of the applicant, contractor, or
 23 volunteer, *who is or intends to become a staff member,* prior to the individual's
 24 presence at the camp or involvement in any program of the camp.

25 (3) Prior to employing, contracting with, or allowing volunteer work, each youth camp
 26 that receives public funds shall require *an applicant*~~applicants~~, *who intends to*
 27 *become a staff member,* to obtain a letter from the Cabinet for Health and Family

1 Services stating the individual is clear to hire based on no findings of substantiated
2 child abuse or neglect found through a background check of child abuse and neglect
3 records maintained by the Cabinet for Health and Family Services of the applicant,
4 contractor, or volunteer, who intends to become a staff member, prior to the
5 individual's presence at the camp or involvement in any program of the camp.

6 (4) Each application form provided by a youth camp that receives public funds to an
7 applicant or volunteer, who intends to become a staff member, shall in a prominent
8 place and legible font conspicuously state the following: "STATE LAW
9 REQUIRES A NATIONAL AND STATE CRIMINAL BACKGROUND CHECK
10 AND A LETTER FROM THE CABINET FOR HEALTH AND FAMILY
11 SERVICES STATING THE STAFF MEMBER~~(EMPLOYEE)~~ IS CLEAR TO
12 HIRE BASED ON NO FINDINGS OF SUBSTANTIATED CHILD ABUSE OR
13 NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE
14 AND NEGLECT RECORDS AS A CONDITION OF EMPLOYMENT OR
15 INVOLVEMENT IN THIS PROGRAM."

16 (5) Any request for records under this section shall be on a form approved by the
17 Justice and Public Safety Cabinet, and the cabinet may charge a fee to be paid by
18 the applicant in an amount no greater than the actual cost of processing the request.

19 (6) This section shall apply to all applicants and volunteers in a position which involves
20 supervisory or disciplinary power over a minor, who intend to become staff
21 members.

22 (7) This section shall not be construed to prohibit an exempted organization from
23 requiring its employees, contractors, or volunteers to submit to a background check.
24 Youth camps that do not receive public funds may require its employees, contractor,
25 or volunteers to submit to a criminal background check and to have a letter,
26 provided by the individual, from the Cabinet for Health and Family Services stating
27 the individual has no findings of substantiated child abuse or neglect found through

1 a background check of child abuse and neglect records maintained by the Cabinet
2 for Health and Family Services.

3 (8) This section shall not be construed to require a youth camp that receives public
4 funds to employ, contract with, or allow volunteering by, an individual solely on the
5 basis of an acceptable criminal background check.

6 (9) This section shall not limit the ability of a youth camp that receives public funds to
7 establish a more stringent background check process for its employees, contractors,
8 or volunteers regarding other criminal offenses which, in the discretion of the youth
9 camp that receives public funds, would disqualify the individual from involvement
10 with the youth camp.

11 (10) The form for requesting a letter, required by this section, stating a staff member~~an~~
12 ~~employee~~ is clear to hire based on a background check of child abuse and neglect
13 records maintained by the Cabinet for Health and Family Services shall be made
14 available on the Cabinet for Health and Family Services Web site.

15 ➔Section 3. KRS 194A.383 is amended to read as follows:

16 (1) Failure to comply with KRS 194A.382 will result in immediate suspension of the
17 entity's permit until compliance is obtained.

18 (2) If any employee, contractor, or volunteer, who is a staff member, is discovered to
19 be a violent offender or has been convicted of a sex crime or a criminal offense
20 against a minor, or has been found by the Cabinet for Health and Family Services to
21 have abused or neglected a child, and if he or she has waived the right to appeal a
22 substantiated finding of child abuse or neglect or if the substantiated incident was
23 upheld upon appeal, he or she shall be immediately terminated from participation
24 with the program and removed from the property.

25 (3) Any person who owns or operates a youth camp that receives public funds and who
26 knowingly allows an individual, who is a staff member, to serve or continue to
27 serve as an employee, contractor, or volunteer despite a conviction or offense

1 specified in this section shall be guilty of a Class A misdemeanor for the first
2 offense and a Class D felony for each subsequent offense.