

# Sex Crimes: Definitions and Penalties Kentucky

*Last Updated: March 2020*

## Rape in the First Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• Sexual intercourse with someone who cannot consent because:</li> <li>• Sexual intercourse by forcible compulsion; or               <ul style="list-style-type: none"> <li>• That person is physically helpless; or</li> <li>• That person is younger than 12.</li> </ul> </li> </ul>
What are the punishments for this crime?	<p>Typically 1st Degree Rape is a class B felony (10-20 years imprisonment)</p> <ul style="list-style-type: none"> <li>• It becomes a Class A felony (20-50 years imprisonment or life in prison) if:               <ul style="list-style-type: none"> <li>• The victim is under 12; or</li> <li>• The victim suffers “serious physical injury” (this phrase is NOT defined).</li> </ul> </li> </ul>
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> <li>• “<b>Forcible compulsion</b>” is physical force or just a threat of force that makes the victim fear immediate death, physical injury to self or 3<sup>d</sup> person, fear of kidnap, etc. – proof of physical resistance by the victim is NOT required.</li> <li>• “<b>Physically helpless</b>” means the victim is either unconscious or otherwise unable to communicate unwillingness.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• KY. REV. STAT. ANN. § 510.040</li> </ul>

## Rape in the Second Degree

Question	Answer
How is it defined?	<p>Occurs when someone who is 18 or older:</p> <ul style="list-style-type: none"> <li>• Has intercourse with someone younger than 14; or</li> <li>• Has intercourse with someone who is mentally incapacitated or who is incapable of consent because he or she is an individual with an intellectual disability.</li> </ul>

What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Rape in the 2nd Degree is a Class C felony (5-10 years imprisonment).</li> </ul>
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> <li>• “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 Ky. Rv. Stat. Chapter 202B)</li> <li>• <b>“Mentally incapacitated”</b> means being temporarily incapable of “appraising or controlling” conduct because of an intoxicating substance administered without the victim’s consent or “as a result of any other act committed upon” the victim without consent.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• KY. REV. STAT. ANN. § 510.050</li> </ul>

## Rape in the Third Degree

Question	Answer
How is it defined?	<p>Occurs when:</p> <ul style="list-style-type: none"> <li>• A person is 21 or older and has intercourse with someone younger than 16;</li> <li>• A person is 21 or older and has intercourse with someone younger than 18 for whom he or she provides a foster home;</li> <li>• A person is in a position of authority or special trust and has intercourse with a minor under the age of 18 whom that person met through the position of authority or trust; or</li> <li>• A person is employed by or otherwise related to the Kentucky correctional system and subjects another person the offender knows to be incarcerated, supervised, evaluated, or treated by the correctional system to sexual intercourse.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Rape in the 3rd Degree is a Class D felony (1-5 years imprisonment).</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• See the definitions under “Rape in the Second Degree”.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• KY. REV. STAT. ANN. § 510.060</li> </ul>

## Sodomy in the First Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• Deviate sexual intercourse with another person by forcible compulsion; or</li> <li>• Deviate sexual intercourse with another person who cannot consent because:               <ul style="list-style-type: none"> <li>• The victim is physically helpless; or</li> <li>• The victim is under 12 years old.</li> </ul> </li> </ul>
What are the punishments for this crime?	<p>Sodomy in the 1st Degree is a Class B felony</p> <ul style="list-style-type: none"> <li>• It becomes a Class A felony if:               <ul style="list-style-type: none"> <li>• The victim is younger than 12; or</li> <li>• The victim suffers serious physical injury.</li> </ul> </li> </ul>
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> <li>• <b>“Deviate sexual intercourse”</b> 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 a foreign object manipulated by another person.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• KY. REV. STAT. ANN. § 510.070</li> </ul>

## Sodomy in the Second Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• Deviate sexual intercourse by someone 18 or older with someone younger than 14; or</li> <li>• Deviate sexual intercourse with someone who is mentally incapacitated or who is incapable of consent because he or she is an individual with an intellectual disability</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Sodomy in the 2nd Degree is a Class C felony.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• See “Rape in the Second Degree” and “Sodomy in the First Degree” for definitions relevant to this offense</li> </ul>

Statutory citation(s):	• KY. REV. STAT. ANN. § 510.080
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## Sodomy in the Third Degree

Question	Answer
How is it defined?	Occurs when: <ul style="list-style-type: none"> <li>• A person is 21 or older and has deviate sexual intercourse with someone younger than 16;</li> <li>• A person is 21 or older and has deviate sexual intercourse with someone younger than 18 for whom he or she provides a foster home;</li> <li>• A person is in a position of authority or special trust and has deviate sexual intercourse with a minor whom that person met through their position of authority or trust; or</li> <li>• A person is employed by or otherwise related to the Kentucky correctional system and subjects another person the offender knows to be incarcerated, supervised, evaluated, or treated by the correctional system to deviate sexual intercourse.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Sodomy in the 3rd Degree is a Class D felony.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
Statutory citation(s):	• KY. REV. STAT. ANN. § 510.090

## Sexual Abuse in the First Degree

Question	Answer
How is it defined?	Occurs when: <ul style="list-style-type: none"> <li>• Is physically helpless;</li> <li>• Is younger than 12 years old; or</li> <li>• Is mentally incapacitated; or</li> <li>• Has an intellectual disability</li> <li>• Subjects another person to sexual contact who is incapable of consent because he or she:</li> </ul>

	<ul style="list-style-type: none"> <li>• A person subjects another person to sexual contact by forcible compulsion; or</li> <li>• Being 21 or older, he or she: <ul style="list-style-type: none"> <li>• Subjects another person who is younger than 16 to sexual contact;</li> <li>• Engages in masturbation in the presence of another person who is less than 16 years old and knows or has reason to know the other person is present; or</li> <li>• Engages in masturbation while using the Internet, telephone, or other electronic communication device while communicating with a minor who the person knows is less than 16 years old, and the minor can see or hear the person masturbate; or</li> </ul> </li> <li>• Being a person in a position of authority or position of special trust he or she, regardless of his or her age, subjects a minor younger than 18, with whom he or she comes into contact as a result of that position, to sexual contact or engages in masturbation in the presence of the minor and knows or has reason to know the minor is present or engages in masturbation while using the Internet, telephone, or other electronic communication device while communicating with a minor who the person knows is less than 16 years old, and the minor can see or hear the person masturbate.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Sexual abuse in the 1st Degree is a Class D felony, unless the victim is younger than 12, in which case the offense is a Class C felony.</li> </ul>
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> <li>• <b>“Sexual contact”</b> 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.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• KY. REV. STAT. ANN. § 510.110</li> </ul>

## Sexual Abuse in the Second Degree

Question	Answer
How is it defined?	<p>Occurs when:</p> <ul style="list-style-type: none"> <li>• The offender is at least 18 but younger than 21 and subjects another person who younger than 16 years old to sexual contact; or</li> <li>• A person is employed by or otherwise related to the Kentucky correctional system and subjects a person who is at least 18 and who he or she knows is incarcerated, supervised, evaluated, or treated by correctional system to sexual contact.</li> </ul>

What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Sexual Abuse in the 2nd Degree is a Class A misdemeanor (up to 12 months imprisonment and/or fine up to \$500).</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• In a prosecution under the first of the two definitions of Sexual Abuse in the Second Degree listed above, it is a defense that the other person's lack of consent was due solely to incapacity to consent by reason of being less than 16 years old, the other person was at least 14 years old, and the actor was less than five years older than the other person.</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• KY. REV. STAT. ANN. § 510.120</li> </ul>

### Sexual Abuse in the Third Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• Subjecting another person to sexual contact without the latter's consent.</li> <li>• It is a defense that: <ul style="list-style-type: none"> <li>• The other person's lack of consent was due solely to incapacity to consent by reason of being younger than 16; and</li> <li>• The other person was at least 14 years old; and</li> <li>• The actor was less than eighteen 18 years old.</li> </ul> </li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Sexual Abuse in the 3rd Degree is a Class B misdemeanor</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• N/A</li> </ul>
Statutory citation(s):	<ul style="list-style-type: none"> <li>• KY. REV. STAT. ANN. § 510.130</li> </ul>

### Sexual Misconduct

Question	Answer
How is it defined?	<ul style="list-style-type: none"> <li>• Engaging in sexual intercourse or deviate sexual intercourse with another person without the latter's consent.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• Sexual Misconduct is a Class A misdemeanor.</li> </ul>

Anything else I should know?	• N/A
Statutory citation(s):	• KY. REV. STAT. ANN. § 510.140

## Statutory Rape

Question	Answer
How is it defined?	<p>Statutory rape is not specifically penalized in Kentucky. But several statutes criminalize specific sex acts with minors:</p> <ul style="list-style-type: none"> <li>• Sex with persons under 12 is first degree rape;</li> <li>• Sex with someone older than 12 but younger than 14 is second degree rape;</li> <li>• A 21 year old who has sexual intercourse with someone younger than 16 commits rape in the third degree;</li> <li>• Deviate sexual intercourse with someone younger than 12 is sodomy in the first degree;</li> <li>• Deviate sexual intercourse between an 18 year old and someone younger than 14 constitutes sodomy in the second degree;</li> <li>• Deviate sexual intercourse between a 21 year old and someone younger than 16 is sodomy in the third degree;</li> <li>• Sexual contact with someone younger than 12, or between someone 21 years old and someone younger than 16, constitutes sexual abuse in the first degree; and</li> <li>• Sexual contact between someone older than 18 but younger than 21 with someone younger than 16 is sexual abuse in the second degree.</li> </ul>
What are the punishments for this crime?	<ul style="list-style-type: none"> <li>• First degree rape is a class A felony when the victim is younger than 12.</li> <li>• Second degree rape is a class C felony.</li> <li>• Third degree rape is a class D felony.</li> <li>• First degree sodomy is a class A felony when the victim is younger than 12.</li> <li>• Second degree sodomy is a class C felony.</li> <li>• Third degree sodomy is a class D felony.</li> <li>• First degree sexual abuse is a class C felony.</li> <li>• Second degree sexual abuse is a class A misdemeanor.</li> </ul>
Anything else I should know?	• N/A
Statutory citation(s):	• KY. REV. STAT. ANN. § 510.040 et sequential

