

Sex Crimes: Definitions and Penalties Kentucky

Last Updated: April 2023

Rape in the First Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Sexual intercourse with someone who cannot consent because: • Sexual intercourse by forcible compulsion; or <ul style="list-style-type: none"> • That person is physically helpless; or • That person is younger than 12.
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"> • It becomes a Class A felony (20-50 years imprisonment or life in prison) if: <ul style="list-style-type: none"> • The victim is under 12; or • The victim suffers “serious physical injury” (this phrase is NOT defined).
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Forcible compulsion” is physical force or just a threat of force, express or implied, that makes the victim fear immediate death, physical injury to self or 3rd person, fear of kidnap, or fear of any offense under this Chapter. Proof of physical resistance by the victim is NOT required to meet the definition. • “Physically helpless” means the victim is either unconscious or otherwise physically unable to communicate unwillingness, including as a result of the influence of a controlled substance or legend drug.
Statutory citation(s):	<ul style="list-style-type: none"> • KY. REV. STAT. ANN. § 510.040 • KY. REV. STAT. ANN. § 510.010 • Sentencing, KY. REV. STAT. ANN. § 532.020

Rape in the Second Degree

Question	Answer
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How is it defined?	Occurs when someone who is 18 or older: <ul style="list-style-type: none"> • Has intercourse with someone younger than 14; or • 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.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Rape in the 2nd Degree is a Class C felony (5-10 years imprisonment).
Anything else I should know?	The following definitions are relevant to this crime: <ul style="list-style-type: none"> • “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) • “Mentally incapacitated” 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.
Statutory citation(s):	<ul style="list-style-type: none"> • KY. REV. STAT. ANN. § 510.050 • KY. REV. STAT. ANN. § 510.010 • Sentencing, KY. REV. STAT. ANN. § 532.020

Rape in the Third Degree

Question	Answer
How is it defined?	Occurs when: <ul style="list-style-type: none"> • A person is 21 or older and has intercourse with someone younger than 16; • A person at least 10 years older than a person who is 16 or 17 years old at the time of sexual intercourse • A person is 21 or older and has intercourse with someone younger than 18 for whom he or she provides a foster home; • A person is in a position of authority or special trust (as defined in 532.045) and has intercourse with a minor under the age of 18 whom that person met through the position of authority or trust; • A person is a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, and subjects another person the offender knows to be incarcerated, supervised,

	<p>evaluated, or treated by the correctional system to sexual intercourse; or</p> <ul style="list-style-type: none"> • A peace officer, while serving in that capacity, subjects a person who the officer arrested, held in custody, or investigated for commission of a traffic or criminal offense, or knew or should have known was under arrest, held in custody, or being investigated for commission of a traffic or criminal offense, to sexual intercourse.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Rape in the 3rd Degree is a Class D felony (1-5 years imprisonment).
Anything else I should know?	<ul style="list-style-type: none"> • See the definitions under “Rape in the Second Degree”.
Statutory citation(s):	<ul style="list-style-type: none"> • KY. REV. STAT. ANN. § 510.060 • KY. REV. STAT. ANN. § 510.010 • Sentencing, KY. REV. STAT. ANN. § 532.020

Sodomy in the First Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Deviate sexual intercourse with another person by forcible compulsion; or • Deviate sexual intercourse with another person who cannot consent because: <ul style="list-style-type: none"> • The victim is physically helpless; or • The victim is under 12 years old.
What are the punishments for this crime?	<p>Sodomy in the 1st Degree is a Class B felony (10-20 years imprisonment)</p> <ul style="list-style-type: none"> • It becomes a Class A felony (20-50 years imprisonment or life in prison) if: <ul style="list-style-type: none"> • The victim is younger than 12; or • The victim suffers serious physical injury.
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “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 a foreign object manipulated by another person. It 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.
Statutory citation(s):	<ul style="list-style-type: none"> • KY. REV. STAT. ANN. § 510.070 • KY. REV. STAT. ANN. § 510.010 • Sentencing, KY. REV. STAT. ANN. § 532.020

Sodomy in the Second Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Deviate sexual intercourse by someone 18 or older with someone younger than 14; or • 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
What are the punishments for this crime?	<ul style="list-style-type: none"> • Sodomy in the 2nd Degree is a Class C felony (5-10 years imprisonment).
Anything else I should know?	<ul style="list-style-type: none"> • See “Rape in the Second Degree” and “Sodomy in the First Degree” for definitions relevant to this offense
Statutory citation(s):	<ul style="list-style-type: none"> • KY. REV. STAT. ANN. § 510.080 • KY. REV. STAT. ANN. § 510.010 • Sentencing, KY. REV. STAT. ANN. § 532.020

Sodomy in the Third Degree

Question	Answer
How is it defined?	<p>Occurs when:</p> <ul style="list-style-type: none"> • A person is 21 or older and has deviate sexual intercourse with someone younger than 16; • A person is at least 10 years older than a person 16 or 17 years old at the time of deviate sexual intercourse; • 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; • A person is in a position of authority or special trust (as defined in 532.045) and has deviate sexual intercourse with a minor whom that person met through their position of authority or trust; • A person is a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, and subjects another person the offender knows to be incarcerated, supervised,

	<p>evaluated, or treated by the correctional system to deviate sexual intercourse; or</p> <ul style="list-style-type: none"> • A peace officer, while serving in that capacity, subjects a person who the officer arrested, held in custody, or investigated for commission of a traffic or criminal offense, or knew or should have known was under arrest, held in custody, or being investigated for commission of a traffic or criminal offense, to deviate sexual intercourse.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Sodomy in the 3rd Degree is a Class D felony (1-5 years imprisonment).
Anything else I should know?	<ul style="list-style-type: none"> • N/A
Statutory citation(s):	<ul style="list-style-type: none"> • KY. REV. STAT. ANN. § 510.090 • KY. REV. STAT. ANN. § 510.010 • Sentencing, KY. REV. STAT. ANN. § 532.020

Sodomy in the Fourth Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Sodomy in the fourth degree was defined as engaging in deviate sexual intercourse with another person of the same sex, where consent was not a defense. • Any state laws that outright prohibit sodomy are unconstitutional under <i>Lawrence v. Texas</i>, 539 U.S. 588 (2003).
What are the punishments for this crime?	<ul style="list-style-type: none"> • N/A
Anything else I should know?	<ul style="list-style-type: none"> • KY. REV. STAT. ANN. § 510.100 (Sodomy in the Fourth Degree) was held unconstitutional in 1992 (<i>Com. v. Wasson</i>, 842 S.W.2d 487 (Ky. 1992)).
Statutory citation(s):	<ul style="list-style-type: none"> • N/A

Sexual Abuse in the First Degree

Question	Answer
How is it defined?	<p>Occurs when:</p> <ul style="list-style-type: none"> • Is physically helpless; • Is younger than 12 years old; • Is mentally incapacitated; or • Has an intellectual disability • Subjects another person to sexual contact who is incapable of consent because he or she: • A person subjects another person to sexual contact by forcible compulsion; or • Being 21 or older, he or she: <ul style="list-style-type: none"> • Subjects another person who is younger than 16 to sexual contact; • 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 • 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 • Being a person in a position of authority or position of special trust (as defined in 532.045) 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.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Sexual abuse in the 1st Degree is a Class D felony (1-5 years imprisonment), unless the victim is younger than 12, in which case the offense is a Class C felony (5-10 years imprisonment).
Anything else I should know?	<p>The following definitions are relevant to this crime:</p> <ul style="list-style-type: none"> • “Sexual contact” 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.
Statutory citation(s):	<ul style="list-style-type: none"> • KY. REV. STAT. ANN. § 510.110 • KY. REV. STAT. ANN. § 510.010 • Sentencing, KY. REV. STAT. ANN. § 532.020

Sexual Abuse in the Second Degree

Question	Answer
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How is it defined?	<p>Occurs when:</p> <ul style="list-style-type: none"> • The offender is at least 18 but younger than 21 and subjects another person who younger than 16 years old to sexual contact; • A person is a jailer, or an employee, contractor, vendor, or volunteer of the Department of Corrections, Department of Juvenile Justice, or a detention facility as defined in KRS 520.010, or of an entity under contract with either department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, 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; or • A peace officer, while serving in that capacity, subjects a person who the officer arrested, held in custody, or investigated for commission of a traffic or criminal offense, or knew or should have known was under arrest, held in custody, or being investigated for commission of a traffic or criminal offense, to sexual contact.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Sexual Abuse in the 2nd Degree is a Class A misdemeanor (between 90 days and up to 12 months imprisonment and/or fine up to \$500).
Anything else I should know?	<ul style="list-style-type: none"> • In a prosecution under the first of the three 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.
Statutory citation(s):	<ul style="list-style-type: none"> • KY. REV. STAT. ANN. § 510.120 • Sentencing, KY. REV. STAT. ANN. § 532.020

Sexual Abuse in the Third Degree

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Subjecting another person to sexual contact without the latter's consent.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Sexual Abuse in the 3rd Degree is a Class B misdemeanor (up to 90 days imprisonment)
Anything else I should know?	<ul style="list-style-type: none"> • It is a defense that: <ul style="list-style-type: none"> • The other person's lack of consent was due solely to incapacity to consent by reason of being younger than 16; • The other person was at least 14 years old; and • The actor was less than 18 years old.

Statutory citation(s):	<ul style="list-style-type: none"> • KY. REV. STAT. ANN. § 510.130 • Sentencing, KY. REV. STAT. ANN. § 532.020
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Sexual Misconduct

Question	Answer
How is it defined?	<ul style="list-style-type: none"> • Engaging in sexual intercourse or deviate sexual intercourse with another person without the latter's consent.
What are the punishments for this crime?	<ul style="list-style-type: none"> • Sexual Misconduct is a Class A misdemeanor (between 90 days and up to 12 months imprisonment).
Anything else I should know?	<ul style="list-style-type: none"> • N/A
Statutory citation(s):	<ul style="list-style-type: none"> • KY. REV. STAT. ANN. § 510.140 • Sentencing, KY. REV. STAT. ANN. § 532.020

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"> • Sex with persons under 12 is first degree rape; • Sex with someone older than 12 but younger than 14 is second degree rape; • A 21 year old who has sexual intercourse with someone younger than 16 commits rape in the third degree; • Deviate sexual intercourse with someone younger than 12 is sodomy in the first degree; • Deviate sexual intercourse between an 18+ year old and someone younger than 14 constitutes sodomy in the second degree; • Deviate sexual intercourse between a 21+ year old and someone younger than 16 is sodomy in the third degree; • 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

	<ul style="list-style-type: none"> • Sexual contact between someone older than 18 but younger than 21 with someone younger than 16 is sexual abuse in the second degree.
What are the punishments for this crime?	<ul style="list-style-type: none"> • First degree rape is a class A felony when the victim is younger than 12 (imprisonment of at least 20 years, but not more than 50 years or life). • Second degree rape is a class C felony (imprisonment of at least 5 years but not more than 10 years). • Third degree rape is a class D felony (imprisonment of at least 1 year but not more than 5 years). • First degree sodomy is a class A felony when the victim is younger than 12 (imprisonment of at least 20 years, but not more than 50 years or life). • Second degree sodomy is a class C felony (imprisonment of at least 5 years but not more than 10 years). • Third degree sodomy is a class D felony (imprisonment of at least 1 year but not more than 5 years). • First degree sexual abuse is a class C felony (imprisonment of at least 5 years but not more than 10 years). • Second degree sexual abuse is a class A misdemeanor (imprisonment for a definite term between 90 days and 12 months).
Anything else I should know?	<ul style="list-style-type: none"> • N/A
Statutory citation(s):	<ul style="list-style-type: none"> • KY. REV. STAT. ANN. § 510.040 et sequential • Sentencing, KY. REV. STAT. ANN. § 532.020