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24 RS BR 1411

2       Be it enacted by the General Assembly of the Commonwealth of Kentucky:         3       → Section 1. KRS 530.020 is amended to read as follows:         4       (1) As used in this section, "sexual intercourse," "deviate sexual intercourse," and         5       "sexual contact" have the same meaning as in KRS 510.010.         6       (2) A person is guilty of incest when he or she:         7       (a) Has sexual intercourse; [-or]         8       (b) Has deviate sexual intercourse; [-or]         9       or         10       (c) Engages in sexual contact;         9       or         11       with a person         12       grandchild, great-grandparent, great-grandchild, uncle, aunt, nephew, niece,         13       brother, sister, [ first-cousin,] ancestor, or descendant. The relationships referred to         14       herein include blood relationships of either the whole or half blood without regard         15       to legitimacy, relationship of parent and child by adoption, relationship of         16       stepparent and stepchild, and relationship of stepgrandparent and stepgrandchild.         17       (3)f(-2)]       (a) For a violation of subsection (2)(a) or (b) of this section:         18       L       Incest is a Class B felony if committed:         21       a_{1}H_{2}With a person without his or her consent;	1	AN ACT relating to incest.
<ul> <li>(1) <u>As used in this section, "sexual intercourse," "deviate sexual intercourse," and</u></li> <li><u>"sexual contact" have the same meaning as in KRS 510.010.</u></li> <li>(2) A person is guilty of incest when he or she:</li> <li>(a) Has sexual intercourse; for;</li> <li>(b) <u>Has</u> deviate sexual intercourse; for;</li> <li>(c) <u>Engages in sexual contact;</u></li> <li><u>with a person</u> whom he or she knows to be his or her parent, child, grandparent, grandchild, great-grandparent, great-grandchild, uncle, aunt, nephew, niece,</li> <li>brother, sister, first cousin; ancestor, or descendant. The relationships referred to herein include blood relationships of either the whole or half blood without regard to legitimacy, relationship of parent and child by adoption, relationship of stepparent and stepchild, and relationship of stepgrandparent and stepgrandchild.</li> <li>(3) <u>For a violation of subsection (2)(a) or (b) of this section:</u></li> <li><u>L</u> Incest is a Class C felony if the act is committed by consenting persons; <del>[1]</del></li> <li><u>a.</u> [1.] With a person without his or her consent;</li> <li><u>b.</u> [2.] By forcible compulsion as defined in KRS 510.010; or</li> <li><u>c.</u> [3] <del>[1.]</del> With a person who is:</li> <li><u>i.</u> [4.] Less than eighteen (18) years of age by a person three (3) or more years older; or</li> </ul>	2	Be it enacted by the General Assembly of the Commonwealth of Kentucky:
5"sexual contact" have the same meaning as in KRS 510.010.6(2)A person is guilty of incest when he or she:7(a)Has sexual intercourse; f-or?8(b)Has deviate sexual intercourse; f-or?9ar9ar10(c)Engages in sexual contact;11with a person12grandchild, great-grandparent, great-grandchild, uncle, aunt, nephew, niece,13brother, sister, f-first cousin,] ancestor, or descendant. The relationships referred to14herein include blood relationships of either the whole or half blood without regard15to legitimacy, relationship of parent and child by adoption, relationship of16stepparent and stepchild, and relationship of stepgrandparent and stepgrandchild.17(3):(2)(a)18I.1Incest is a Class C felony if the act is committed by consenting19persons;f-1202.:(b)21m:f1:?With a person without his or her consent;22b:f2:?By forcible compulsion as defined in KRS 510.010; or23c:[4:]With a person who is:24i:[4:] Less than eighteen (18) years of age by a person three (3) or25more years older; or26ii:[b:]Incapable of consent because he or she is physically helpless	3	→ Section 1. KRS 530.020 is amended to read as follows:
6       (2)       A person is guilty of incest when he or she:         7       (a)       Has sexual intercourse; [-or]         8       (b)       Has deviate sexual intercourse[, -as defined in KRS 510.010, with a person];         9       ar         10       (c)       Engages in sexual contact;         11       with a person       whom he or she knows to be his or her parent, child, grandparent,         12       grandchild, great-grandparent, great-grandchild, uncle, aunt, nephew, niece,         13       brother, sister, [-first-cousin,] ancestor, or descendant. The relationships referred to         14       herein include blood relationships of either the whole or half blood without regard         15       to legitimacy, relationship of parent and child by adoption, relationship of         16       stepparent and stepchild, and relationship of stepgrandparent and stepgrandchild.         17       (3):(2):1       (a)         18       I.       Incest is a Class C felony if the act is committed by consenting         19       persons;[-]         20       2;(40)       Incest is a Class B felony if committed:         21       a:[+];With a person without his or her consent;         22       b:[+];With a person who is:         23       c:[4-]; With a person who is:         24       i:[4-]; L	4	(1) <u>As used in this section, "sexual intercourse," "deviate sexual intercourse," and</u>
7       (a) Has sexual intercourse; [-or]         8       (b) Has deviate sexual intercourse[, as defined in KRS 510.010, with a person];         9       or         10       (c) Engages in sexual contact;         11       with a person         12       grandchild, great-grandparent, great-grandchild, uncle, aunt, nephew, niece,         13       brother, sister, first cousin,] ancestor, or descendant. The relationships referred to         14       herein include blood relationships of either the whole or half blood without regard         15       to legitimacy, relationship of parent and child by adoption, relationship of         16       stepparent and stepchild, and relationship of stepgrandparent and stepgrandchild.         17       (3)(-2)!       (a) For a violation of subsection (2)(a) or (b) of this section:         18       I. Incest is a Class C felony if the act is committed by consenting         19       persons;[-]         20       2.[(-b)]         21       a.[1-].With a person without his or her consent;         22       b;[2-].By forcible compulsion as defined in KRS 510.010; or         23       c.[4-].By forcible compulsion as defined in KRS 510.010; or         23       c.[4-].By thin a person who is:         24       i.[a-].Less than eighteen (18) years of age by a person three (3) or         25	5	"sexual contact" have the same meaning as in KRS 510.010.
8       (b) Has deviate sexual intercourse[, as defined in KRS 510.010, with a person];         9       or         10       (c) Engages in sexual contact;         11       with a person whom he or she knows to be his or her parent, child, grandparent, grandchild, great-grandparent, great-grandchild, uncle, aunt, nephew, niece, brother, sister, first cousin,] ancestor, or descendant. The relationships referred to herein include blood relationships of either the whole or half blood without regard to legitimacy, relationship of parent and child by adoption, relationship of stepparent and stepchild, and relationship of stepgrandparent and stepgrandchild.         17       (3)[(2)]       (a) For a violation of subsection (2)(a) or (b) of this section:         18       L. Incest is a Class C felony if the act is committed by consenting persons; [.]         20       2.[(b)]         21       a.[H.] With a person without his or her consent;         22       b.[2.] By forcible compulsion as defined in KRS 510.010; or         23       c.[4.]. Less than eighteen (18) years of age by a person three (3) or         24       i.[4.]. Less than eighteen (18) years of age by a person three (3) or         25       more years older; or         26       ii.[4.]. Incapable of consent because he or she is physically helpless	6	(2) A person is guilty of incest when he or she:
9 $\underline{or}$ 10(c) Engages in sexual contact:11with a person whom he or she knows to be his or her parent, child, grandparent,12grandchild, great-grandparent, great-grandchild, uncle, aunt, nephew, niece,13brother, sister, first cousin,] ancestor, or descendant. The relationships referred to14herein include blood relationships of either the whole or half blood without regard15to legitimacy, relationship of parent and child by adoption, relationship of16stepparent and stepchild, and relationship of stepgrandparent and stepgrandchild.17(3)[(2)]18I. Incest is a Class C felony if the act is committed by consenting19persons;[-]202.f( $\mathbf{b}$ )]21 $\underline{a}_{1}$ [ $\mathbf{t}_{2}$ ]With a person without his or her consent;22 $\underline{b}_{1}$ [ $\mathbf{c}_{2}$ ] With a person who is:23 $\underline{c}_{1}$ [ $\mathbf{a}_{2}$ ] Less than eighteen (18) years of age by a person three (3) or25more years older; or26 $\underline{i}_{1}$ [ $\mathbf{b}_{2}$ ]Incapable of consent because he or she is physically helpless	7	(a) Has sexual intercourse: [ or]
10(c) Engages in sexual contact;11with a person whom he or she knows to be his or her parent, child, grandparent,12grandchild, great-grandparent, great-grandchild, uncle, aunt, nephew, niece,13brother, sister, [first cousin,] ancestor, or descendant. The relationships referred to14herein include blood relationships of either the whole or half blood without regard15to legitimacy, relationship of parent and child by adoption, relationship of16stepparent and stepchild, and relationship of stepgrandparent and stepgrandchild.17(3)[(2)]18[]202.[(b)]21 $a_i$ [1-]202.[(b)]21 $a_i$ [1-]22 $b_i$ [2-]23 $c_i$ [3-]24 $b_i$ [2-]25more years of age by a person three (3) or26 $i_i$ [b-]26 $i_i$ [b-]	8	(b) Has deviate sexual intercourse[, as defined in KRS 510.010, with a person]:
11with a person11with a person12grandchild, great-grandparent, great-grandchild, uncle, aunt, nephew, niece,13brother, sister, [first cousin,] ancestor, or descendant. The relationships referred to14herein include blood relationships of either the whole or half blood without regard15to legitimacy, relationship of parent and child by adoption, relationship of16stepparent and stepchild, and relationship of stepgrandparent and stepgrandchild.17(3)[(2)]18[]19persons;[-]202.[(b)]21 $a_{1}$ [1-]With a person without his or her consent;22 $b_{1}$ [2-]By forcible compulsion as defined in KRS 510.010; or23 $c_{1}$ [3-] With a person who is:24 $i_{1}$ [a-] Less than eighteen (18) years of age by a person three (3) or25more years older; or26 $i_{1}$ [b-]Incapable of consent because he or she is physically helpless	9	<u>0r</u>
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14herein include blood relationships of either the whole or half blood without regard15to legitimacy, relationship of parent and child by adoption, relationship of16stepparent and stepchild, and relationship of stepgrandparent and stepgrandchild.17(3)[(2)](a)For a violation of subsection (2)(a) or (b) of this section:18I.Incest is a Class C felony if the act is committed by consenting19persons;[-]202.[(b)]11Incest is a Class B felony if committed:21 $a_{[1-]}$ With a person without his or her consent;22 $b_{[2-]}$ By forcible compulsion as defined in KRS 510.010; or23 $c_{[3-]}$ With a person who is:24 $i_{[a-]}$ Less than eighteen (18) years of age by a person three (3) or25more years older; or26 $i_{i}$ [b-]Incapable of consent because he or she is physically helpless	12	grandchild, great-grandparent, great-grandchild, uncle, aunt, nephew, niece,
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18 $\underline{I}$ . Incest is a Class C felony if the act is committed by consenting19persons; [.]20 $\underline{2}$ . [(b)]21 $\underline{a}$ . [1-] With a person without his or her consent;22 $\underline{b}$ . [2-] By forcible compulsion as defined in KRS 510.010; or23 $\underline{c}$ . [3-] With a person who is:24 $\underline{i}$ . [a.] Less than eighteen (18) years of age by a person three (3) or25more years older; or26 $\underline{i}$ . [b.] Incapable of consent because he or she is physically helpless	16	stepparent and stepchild, and relationship of stepgrandparent and stepgrandchild.
19persons; [.]20 $2.[(b)]$ Incest is a Class B felony if committed:21 $a.[1.]$ With a person without his or her consent;22 $b.[2.]$ By forcible compulsion as defined in KRS 510.010; or23 $c.[3.]$ With a person who is:24 $i.[a.]$ Less than eighteen (18) years of age by a person three (3) or25more years older; or26 $i.[b.]$ Incapable of consent because he or she is physically helpless	17	(3)[(2)] (a) For a violation of subsection (2)(a) or (b) of this section:
20 $2.[(b)]$ Incest is a Class B felony if committed:21 $a.[1.]$ With a person without his or her consent;22 $b.[2.]$ By forcible compulsion as defined in KRS 510.010; or23 $c.[3.]$ With a person who is:24 $i.[a.]$ Less than eighteen (18) years of age by a person three (3) or25more years older; or26 $i.[b.]$ Incapable of consent because he or she is physically helpless	18	<u>1.</u> Incest is a Class C felony if the act is committed by consenting
21a.[1.]With a person without his or her consent;22b.[2.]By forcible compulsion as defined in KRS 510.010; or23c.[3.]With a person who is:24i.[a.] Less than eighteen (18) years of age by a person three (3) or25more years older; or26ii.[b.]Incapable of consent because he or she is physically helpless	19	persons <u>;[.]</u>
22 <b>b.</b> [2.]By forcible compulsion as defined in KRS 510.010; or23 <b>c.</b> [3.]With a person who is:24 <b>i.</b> [a.] Less than eighteen (18) years of age by a person three (3) or25more years older; or26 <b>ii.</b> [b.]Incapable of consent because he or she is physically helpless	20	<u>2.[(b)]</u> Incest is a Class B felony if committed:
<ul> <li>23 <u>c.[3.]</u> With a person who is:</li> <li>24 <u>i.[a.]</u> Less than eighteen (18) years of age by a person three (3) or</li> <li>25 more years older; or</li> <li>26 <u>ii.[b.]</u> Incapable of consent because he or she is physically helpless</li> </ul>	21	<u>a.[1.]</u> With a person without his or her consent;
24 <u>i.[a.]</u> Less than eighteen (18) years of age by a person three (3) or         25       more years older; or         26 <u>ii.[b.]</u> Incapable of consent because he or she is physically helpless	22	<b><u>b.</u></b> [2.]By forcible compulsion as defined in KRS 510.010; or
<ul> <li>25 more years older; or</li> <li>26 <u><i>ü.</i>[b.]</u>Incapable of consent because he or she is physically helpless</li> </ul>	23	<u>c.[3.]</u> With a person who is:
26 $\underline{ii.[b.]}$ Incapable of consent because he or she is physically helpless	24	$\underline{i}_{[a.]}$ Less than eighteen (18) years of age by a person three (3) or
	25	more years older; or
or mentally incapacitated as defined in KRS 510.010; and	26	<u><i>ii</i>.</u> [b.]Incapable of consent because he or she is physically helpless
	27	or mentally incapacitated as defined in KRS 510.010; and

1			<u>3.[(c)]</u>	Incest is a Class A felony if committed:	
2			<u>a.</u> [1.	With a person who is less than twelve (12) years of age; or	
3			<u><b>b.</b></u> [2.	With a person without his or her consent causing serious physical	
4				injury.	
5		<u>(b)</u>	For a viol	ation of subsection (2)(c) of this section, incest is a Class D felony	
6			<u>unless it i</u>	s committed with a person who is less than twelve (12) years of	
7			<u>age, in wh</u>	ich case it is a Class C felony.	
8		⇒S	ection 2. K	RS 439.3401 is amended to read as follows:	
9	(1)	As used in this section, "violent offender" means any person who has been			
10		conv	victed of or	pled guilty to the commission of:	
11		(a)	A capital of	offense;	
12		(b)	A Class A	felony;	
13		(c)	A Class B	felony involving the death of the victim or serious physical injury	
14			to a victim	· ·	
15		(d)	An offense	e described in KRS 507.040 or 507.050 where the offense involves	
16			the killing	g of a peace officer, firefighter, or emergency medical services	
17			personnel	while the peace officer, firefighter, or emergency medical services	
18			personnel	was acting in the line of duty;	
19		(e)	A Class E	felony involving criminal attempt to commit murder under KRS	
20			506.010 it	the victim of the offense is a clearly identifiable peace officer,	
21			firefighter	or emergency medical services personnel acting in the line of duty,	
22			regardless	of whether an injury results;	
23		(f)	The com	nission or attempted commission of a felony sexual offense	
24			described	in KRS Chapter 510;	
25		(g)	Use of a m	inor in a sexual performance as described in KRS 531.310;	
26		(h)	Promoting	a sexual performance by a minor as described in KRS 531.320;	
27		(i)	Unlawful	transaction with a minor in the first degree as described in KRS	

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1			530.064(1)(a);			
2		(j)	Human trafficking under KRS 529.100 involving commercial sexual activit			
3		where the victim is a minor;				
4		(k) Criminal abuse in the first degree as described in KRS 508.100;				
5		(1)	Burglary in the first degree accompanied by the commission or attempted			
6			commission of an assault <u>as</u> described in KRS 508.010, 508.020, 508.032, or			
7			508.060;			
8		(m)	Burglary in the first degree accompanied by commission or attempted			
9			commission of kidnapping as <i>described in</i> [prohibited by] KRS 509.040;			
10		(n)	Robbery in the first degree as described in KRS 515.020; or			
11		(0)	Incest as described in KRS 530.020(3)(a)2. or 3., or (b)[(2)(b) or (c)].			
12		The court shall designate in its judgment if the victim suffered death or serious				
13		physical injury.				
14	(2)	A violent offender who has been convicted of a capital offense and who has				
15		received a life sentence [(]and has not been sentenced to twenty-five (25) years				
16		without parole or imprisonment for life without benefit of probation or parole[)], or				
17		a Class A felony and receives a life sentence, or to death and his or her sentence is				
18		commuted to a life sentence shall not be released on probation or parole until he or				
19		she has served at least twenty (20) years in the penitentiary. Violent offenders may				
20		have a greater minimum parole eligibility date than other offenders who receive				
21		longer sentences, including a sentence of life imprisonment.				
22	(3)	(a)	A violent offender who has been convicted of a capital offense or Class A			
23			felony with a sentence of a term of years or Class B felony shall not be			
24			released on probation or parole until he or she has served at least eighty-five			
25			percent (85%) of the sentence imposed.			
26		(b)	A violent offender who has been convicted of a violation of KRS 507.040			
27			where the victim of the offense was clearly identifiable as a peace officer, a			

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firefighter, or emergency medical services personnel, and the victim was
 acting in the line of duty shall not be released on probation or parole until he
 or she has served at least eighty-five percent (85%) of the sentence imposed.

- 4 (c) A violent offender who has been convicted of a violation of KRS 507.040 or
  5 507.050 where the victim of the offense was a peace officer, a firefighter, or
  6 emergency medical services personnel, and the victim was acting in the line
  7 of duty shall not be released on probation or parole until he or she has served
  8 at least fifty percent (50%) of the sentence imposed.
- 9 (d) Any offender who has been convicted of a homicide or fetal homicide offense 10 under KRS Chapter 507 or 507A in which the victim of the offense died as 11 the result of an overdose of a Schedule I controlled substance and who is not 12 otherwise subject to paragraph (a), (b), or (c) of this subsection shall not be 13 released on probation, shock probation, parole, conditional discharge, or other 14 form of early release until he or she has served at least fifty percent (50%) of 15 the sentence imposed.

(4) A violent offender shall not be awarded any credit on his <u>or her</u> sentence authorized
by KRS 197.045(1)(b)1. In no event shall a violent offender be given credit on his
or her sentence if the credit reduces the term of imprisonment to less than eightyfive percent (85%) of the sentence.

- (5) This section shall not apply to a person who has been determined by a court to have
  been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard
  to the offenses involving the death of the victim or serious physical injury to the
  victim. The provisions of this subsection shall not extend to rape in the first degree
  or sodomy in the first degree by the defendant.
- (6) This section shall apply only to those persons who commit offenses after July 15,
  1998.
- 27 (7) For offenses committed prior to July 15, 1998, the version of this statute in effect

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- 1 immediately prior to that date shall continue to apply.
- 2 (8) The provisions of subsection (1) of this section extending the definition of "violent
  3 offender" to persons convicted of or pleading guilty to robbery in the first degree
- 4 shall apply only to persons whose crime was committed after July 15, 2002.