

1 AN ACT relating to incest.

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~~, 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,
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 **1.** Incest is a Class C felony if the act is committed by consenting
19 persons; ~~or~~

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; or

23 **c.**~~3.~~ With a person who is:

24 **i.**~~a.~~ Less than eighteen (18) years of age by a person three (3) or
25 more years older; or

26 **ii.**~~b.~~ Incapable of consent because he or she is physically helpless
27 or mentally incapacitated as defined in KRS 510.010; **and** ~~or~~

1 ~~3.[(e)]~~ Incest is a Class A felony if committed:

2 ~~a. [1.]~~ With a person who is less than twelve (12) years of age; or

3 ~~b. [2.]~~ With a person without his or her consent causing serious physical
4 injury.

5 **(b) For a violation of subsection (2)(c) of this section, incest is a Class D felony**
6 **unless it is committed with a person who is less than twelve (12) years of**
7 **age, in which case it is a Class C felony.**

8 ➔Section 2. KRS 439.3401 is amended to read as follows:

9 (1) As used in this section, "violent offender" means any person who has been
10 convicted of or pled guilty to the commission of:

11 (a) A capital 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 described in KRS 507.040 or 507.050 where the offense involves
16 the killing 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 B felony involving criminal attempt to commit murder under KRS
20 506.010 if 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 commission or attempted commission of a felony sexual offense
24 described in KRS Chapter 510;

25 (g) Use of a minor 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

- 1 530.064(1)(a);
- 2 (j) Human trafficking under KRS 529.100 involving commercial sexual activity
- 3 where the victim is a minor;
- 4 (k) Criminal abuse in the first degree as described in KRS 508.100;
- 5 (l) Burglary in the first degree accompanied by the commission or attempted
- 6 commission of an assault as 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 described in~~[prohibited by]~~ KRS 509.040;
- 10 (n) Robbery in the first degree as described in KRS 515.020; or
- 11 (o) 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

1 firefighter, or emergency medical services personnel, and the victim was
2 acting in the line of duty shall not be released on probation or parole until he
3 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.

16 (4) A violent offender shall not be awarded any credit on his *or her* sentence authorized
17 by KRS 197.045(1)(b)1. In no event shall a violent offender be given credit on his
18 or her sentence if the credit reduces the term of imprisonment to less than eighty-
19 five percent (85%) of the sentence.

20 (5) This section shall not apply to a person who has been determined by a court to have
21 been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard
22 to the offenses involving the death of the victim or serious physical injury to the
23 victim. The provisions of this subsection shall not extend to rape in the first degree
24 or sodomy in the first degree by the defendant.

25 (6) This section shall apply only to those persons who commit offenses after July 15,
26 1998.

27 (7) For offenses committed prior to July 15, 1998, the version of this statute in effect

- 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.