

**KRS CHAPTER 500
GENERAL PROVISIONS
(Selected Sections)**

KRS 500.010 Title

KRS Chapters 500 to 534 shall be known as the Kentucky Penal Code.

KRS 500.050 Time limitations

- (1) Except as otherwise expressly provided, the prosecution of a felony is not subject to a period of limitation and may be commenced at any time.
- (2) Except as otherwise expressly provided, the prosecution of an offense other than a felony must be commenced within one (1) year after it is committed.
- (3) For a misdemeanor offense under KRS Chapter 510 when the victim is under the age of eighteen (18) at the time of the offense, the prosecution of the offense shall be commenced within five (5) years after the victim attains the age of eighteen (18) years.
- (4) For purposes of this section, an offense is committed either when every element occurs, or if a legislative purpose to prohibit a continuing courses of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated.

KRS 500.060 Territorial applicability

- (1) Except as otherwise provided in this section, a person may be convicted under the law of this state of an offense committed by his own conduct or the conduct of another for which he is legally accountable when:
 - (a) Either the conduct or the result which is an element of the offense occurs within this state; or
 - (b) Conduct occurring outside the state is sufficient to constitute an attempt to commit an offense within the state; or
 - (c) Conduct occurring outside the state is sufficient to constitute a conspiracy to commit an offense within the state and an overt act in furtherance of the conspiracy occurs within the state; or
 - (d) Conduct occurring within this state establishes complicity in the commission of, or an attempt, solicitation or conspiracy to commit, an offense in another jurisdiction which is also an offense under the law of this state; or
 - (e) The offense consists of the omission to perform a legal duty imposed by the law of this state regardless of where that person is when the omission occurs; or
 - (f) The offense is a violation of a statute of this state that expressly prohibits conduct outside the state.
- (2) Subsection (1)(a) does not apply if causing a particular result is an element of an offense and the result is caused by conduct occurring outside the state that would not constitute an offense if the result had occurred there, unless the actor intentionally or knowingly caused the result within the state.
- (3) When the offense is homicide, either the death of the victim or the bodily impact causing death constitutes a "result" within the meaning of subsection (1) (a). If the body of a homicide victim is found within this state, it shall be prima facie evidence that the result occurred within the state.

KRS 500.080 Definitions for Kentucky Penal Code

As used in the Kentucky Penal Code, unless the context otherwise requires:

- (1) "**Actor**" means any natural person and, where relevant, a corporation or an unincorporated association;
- (2) "**Crime**" means a misdemeanor or a felony;
- (3) "**Dangerous instrument**" means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;
- (4) "**Deadly weapon**" means any of the following:

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- (a) A weapon of mass destruction;
 - (b) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;
 - (c) Any knife other than an ordinary pocket knife or hunting knife;
 - (d) Billy, nightstick, or club;
 - (e) Blackjack or slapjack;
 - (f) Nunchaku karate sticks;
 - (g) Shuriken or death star; or
 - (h) Artificial knuckles made from metal, plastic, or other similar hard material;
- (5) "**Felony**" means an offense for which a sentence to a term of imprisonment of at least one (1) year in the custody of the Department of Corrections may be imposed;
 - (6) "**Government**" means the United States, any state, county, municipality, or other political unit, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;
 - (7) "**He**" means any natural person and, where relevant, a corporation or an unincorporated association;
 - (8) "**Law**" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;
 - (9) "**Minor**" means any person who has not reached the age of majority as defined in KRS 2.015;
 - (10) "**Misdemeanor**" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;
 - (11) "**Offense**" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same;
 - (12) "**Person**" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority;
 - (13) "**Physical injury**" means substantial physical pain or any impairment of physical condition;
 - (14) "**Possession**" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;
 - (15) "**Serious physical injury**" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;
 - (16) "**Unlawful**" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral;
 - (17) "**Violation**" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed; and
 - (18) "**Weapon of mass destruction**" means:
 - (a) Any destructive device as defined in KRS 237.030, but not fireworks as defined in KRS 227.700;
 - (b) Any weapon that is designed or intended to cause death or serious physical injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors;
 - (c) Any weapon involving a disease organism; or
 - (d) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

KRS 500.090 Forfeiture

- (1) Except as provided in KRS 500.092, all property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.
 - (a) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.

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- (b) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to:
 - 1. The state, if the property was seized by an agency of the state or peace officer thereof;
 - 2. The county, if the property was seized by the sheriff or an agency or peace officer of the county;
 - 3. The Department of Fish and Wildlife Resources, if the property was seized by a peace officer of the Department of Fish and Wildlife or was seized by any other officer for violation of KRS Chapter 150;
 - 4. The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the city property clerk;
 - 5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds), if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or
 - 6. The state, if the property was seized by any combination of agencies listed above.
- (c) Subject to the duty to return confiscated firearms and ammunition to innocent owners pursuant to this section, all firearms and ammunition confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms and ammunition coming into the custody of a state or local law enforcement agency and not retained for official use shall be transferred to the Kentucky State Police for disposition as provided by KRS 16.220. The transfer shall occur not more than ninety (90) days after the abandonment of the firearm or ammunition to the law enforcement agency or not more than ninety (90) days after its confiscation, unless a court requires the firearm or ammunition for use as evidence, in which case it shall be transferred to the Kentucky State Police not more than ninety (90) days following the order of forfeiture by the court or after the court returns the firearm or ammunition from use as evidence. Prior to the sale of any firearm or ammunition, the law enforcement agency shall make a bona fide attempt to determine if the firearm or ammunition to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm and ammunition to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms and ammunition shall not apply to firearms and ammunition auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms and ammunition of the type auctioned.
- (d) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.
- (e) Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official use in the following manner. Property which has been seized by an agency of the state may be retained for official state use. Property which has been seized by an agency of county, city, or urban-county government may be retained for official use by the government whose agency seized the property or for official state use. Property seized by any other unit of government may be retained only for official state use. The expenses for keeping and transferring such property shall be paid by the unit of government by which the property is retained.
- (2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of the state. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.
- (3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section.

- (4) The trial court shall remit the forfeiture of property when the lawful claimant:
- (a) Asserts his claim before disposition of the property pursuant to this section;
 - (b) Establishes his legal interest in the property; and
 - (c) Establishes that the unlawful use of the property was without his knowledge and consent.
- Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1) (b) of this section.
- (5) For purposes of this section, "**lawful claimant**" means owner or lienholder of record.
- (6) Before property which has had its identity obscured in violation of KRS 514.120 may be sold or retained for official use as provided in this section, the court shall cause a serial or other identifying number to be placed thereon and a record of the number assigned shall be placed in the court order authorizing the sale or retention of the property. This number shall be assigned, whenever applicable, in consultation with the Kentucky State Police and any other state or federal regulatory agency. The purchaser of the property shall be given a document stating that the property had been forfeited pursuant to law and that a number, shown on the document, has been assigned which shall be deemed as compliance of the owner with KRS 514.120. When property is returned to an owner pursuant to this section and its identity has been obscured by another person in violation of KRS 514.120, the court shall provide a document to the owner relieving him of liability for its continued possession. This document shall serve as evidence of compliance with KRS 514.120 by the owner or any person to whom he lawfully disposes of the property. This section shall not apply to any person after property has been sold or returned in compliance with this section who violates the provisions of KRS 514.120 with respect to that property.
- (7) Before forfeiture of any property under this section, it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable, the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made or may, in lieu thereof, order the return of the property to the lawful owner or claimant. If the lawful owner or claimant does not assert his claim to the property after notification or if he renounces his claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs.

KRS 500.092 Forfeiture of personal property not used as a residence

- (1) (a) Notwithstanding KRS 500.090, all personal property which is not used as a permanent residence in this state which is used in connection with or acquired as a result of a violation or attempted violation of any of the statutes set out in subsection (3) of this section shall be subject to forfeiture under the same terms, conditions, and defenses and using the same process as set out in KRS 218A.405 to 218A.460 for property subject to forfeiture under that chapter.
- (b) Notwithstanding KRS 500.090, all real and personal property in this state which is used in connection with or acquired as a result of a violation or attempted violation of KRS 531.310 or 531.320 shall be subject to forfeiture under the same terms, conditions, and defenses and using the same process as set out in KRS 218A.405 to 218A.460 for property subject to forfeiture under that chapter.
- (2) Administrative regulations promulgated under KRS 218A.420 shall govern expenditures derived from forfeitures under this section to the same extent that they govern expenditures from forfeitures under KRS 218A.405 to 218A.460.

- (3) The following offenses may trigger forfeiture of personal property under subsection (1) of this section:
- (a) 17.546;
 - (b) KRS 508.140 and 508.150 involving the use of any equipment, instrument, machine, or other device by which communication or information is transmitted, including computers, the Internet or other electronic network, camera or other recording devices, telephones or other personal communications devices, scanners or other copying devices, and any device that enables the use of a transmitting device;
 - (c) KRS 510.155;
 - (d) KRS 530.064(1)(a);
 - (e) KRS 531.030;
 - (f) KRS 531.040;
 - (g) KRS 531.310;
 - (h) KRS 531.320;
 - (i) KRS 531.335;
 - (j) KRS 531.340;
 - (k) KRS 531.350;
 - (l) KRS 531.360; and
 - (m) KRS 531.370.

KRS 500.093 Prohibition against court or law enforcement agency retaining firearms or ammunition to prevent their transfer or sale

No court or law enforcement agency shall retain a firearm or ammunition for official use for the purpose of avoiding transfer of the firearm or ammunition to the Kentucky State Police under KRS 237.090, 500.090, or other statute to avoid its being sold pursuant to KRS 16.220.

**KRS CHAPTER 501
GENERAL PRINCIPLES OF LIABILITY**

KRS 501.010 Definitions

The following definitions apply in this chapter:

- (1) "**Culpable mental state**" means "intentionally" or "knowingly" or "wantonly" or "recklessly," as these terms are defined in KRS 501.020.
- (2) "**Intoxication**" means a disturbance of mental or physical capacities resulting from the introduction of substances into the body.
- (3) "**Voluntary act**" means a bodily movement performed consciously as a result of effort or determination and includes the possession of property if the actor was aware of his physical possession or control thereof for a sufficient period to have been able to terminate it.
- (4) "**Voluntary intoxication**" means intoxication caused by substances which the defendant knowingly introduces into his body, the tendency of which to cause intoxication he knows or ought to know, unless he introduces them pursuant to medical advice or under such duress as would afford a defense to a charge of crime.

KRS 501.020 Definition of mental states

The following definitions apply in the Kentucky Penal Code:

- (1) "**Intentionally**"--A person acts intentionally with respect to a result or to conduct described by a statute defining an offense when his conscious objective is to cause that result or to engage in that conduct.
- (2) "**Knowingly**"--A person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of that nature or that the circumstance exists.
- (3) "**Wantonly**"--A person acts wantonly with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such

nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts wantonly with respect thereto.

- (4) **"Recklessly"**--A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

KRS 501.030 Criminal liability

A person is not guilty of a criminal offense unless:

- (1) He has engaged in conduct which includes a voluntary act or the omission to perform a duty which the law imposes upon him and which he is physically capable of performing; and
- (2) He has engaged in such conduct intentionally, knowingly, wantonly or recklessly as the law may require, with respect to each element of the offense, except that this requirement does not apply to any offense which imposes absolute liability, as defined in KRS 501.050.

KRS 501.040 Culpability – Construction of statutes

Although no culpable mental state is expressly designated in a statute defining an offense, a culpable mental state may nevertheless be required for the commission of such offense, or with respect to some or all of the material elements thereof, if the proscribed conduct necessarily involves such culpable mental state.

KRS 501.050 Absolute liability

A person may be guilty of an offense without having one (1) of the culpable mental states defined in KRS 501.020 only when:

- (1) The offense is a violation or a misdemeanor as defined in KRS 500.080 and no particular culpable mental state is included within the definition of the offense; or
- (2) The offense is defined by a statute other than this Penal Code and the statute clearly indicates a legislative purpose to impose absolute liability for the conduct described.

KRS 501.060 Causal relationships

- (1) Conduct is the cause of a result when it is an antecedent without which the result in question would not have occurred.
- (2) When intentionally causing a particular result is an element of an offense, the element is not established if the actual result is not within the intention or the contemplation of the actor unless:
 - (a) The actual result differs from that intended or contemplated, as the case may be, only in the respect that a different person or different property is injured or affected or that the injury or harm intended or contemplated would have been more serious or more extensive; or
 - (b) The actual result involves the same kind of injury or harm as that intended or contemplated and occurs in a manner which the actor knows or should know is rendered substantially more probable by his conduct.
- (3) When wantonly or recklessly causing a particular result is an element of an offense, the element is not established if the actual result is not within the risk of which the actor is aware or, in the case of recklessness, of which he should be aware unless:
 - (a) The actual result differs from the probable result only in the respect that a different person or different property is injured or affected or that the probable injury or harm would have been more serious or more extensive than that caused; or
 - (b) The actual result involves the same kind of injury or harm as the probable result and occurs in a manner which the actor knows or should know is rendered substantially more probable by his conduct.
- (4) The question of whether an actor knew or should have known the result he caused was rendered substantially more probable by his conduct is an issue of fact.

KRS 501.070 Liability – Ignorance or mistake

- (1) A person's ignorance or mistake as to a matter of fact or law does not relieve him of criminal liability unless:
 - (a) Such ignorance or mistake negatives the existence of the culpable mental state required for commission of an offense; or
 - (b) The statute under which he is charged or a statute related thereto expressly provides that such ignorance or mistake constitutes a defense or exemption; or
 - (c) Such ignorance or mistake is of a kind that supports a defense of justification as defined in this Penal Code.
- (2) When ignorance or mistake relieves a person of criminal liability under subsection (1) but he would be guilty of another offense had the situation been as he supposed it was, he may be convicted of that other offense.
- (3) A person's mistaken belief that his conduct, as a matter of law, does not constitute an offense does not relieve him of criminal liability, unless such mistaken belief is actually founded upon an official statement of the law, afterward determined to be invalid or erroneous, contained in:
 - (a) A statute or other enactment; or
 - (b) A judicial decision, opinion or judgment; or
 - (c) An administrative order or grant of permission; or
 - (d) An official interpretation of the public officer or body charged by law with responsibility for the interpretation, administration or enforcement of the law defining the offense.

KRS 501.080 Liability – Intoxication

Intoxication is a defense to a criminal charge only if such condition either:

- (1) Negatives the existence of an element of the offense; or
- (2) Is not voluntarily produced and deprives the defendant of substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law.

KRS 501.090 Liability – Duress

- (1) In any prosecution for an offense other than an intentional homicide, it is a defense that the defendant engaged in the proscribed conduct because he was coerced to do so by the use of, or a threat of the use of, unlawful physical force against him or another person which a person in his situation could not reasonably be expected to resist.
- (2) The defense provided by subsection (1) is unavailable if the defendant intentionally or wantonly placed himself in a situation in which it was probable that he would be subjected to coercion.

KRS 501.100 Offense against a vulnerable victim

- (1) As used in this section, "offense against a vulnerable victim" means any violation of:
 - (a) KRS 508.100;
 - (b) KRS 508.110;
 - (c) KRS 508.120;
 - (d) KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 510.120, or 530.020, if the victim is under the age of fourteen (14), or if the victim is an individual with an intellectual disability, physically helpless, or mentally incapacitated, as those terms are defined in KRS 510.010;
 - (e) KRS 529.100 or 529.110 if the victim is a minor;
 - (f) KRS 530.064(1)(a);
 - (g) KRS 531.310;
 - (h) KRS 531.320; or
 - (i) Any felony in KRS Chapter 209.
- (2) A person may be charged with committing an offense against a vulnerable victim in a continuing course of conduct if the unlawful act was committed against the same person two (2) or more times over a specified period of time.
- (3) If a person is charged as committing the crime in a continuing course of conduct, the indictment

- shall clearly charge that the crime was committed in a continuing course of conduct.
- (4) To convict a person of an offense against a vulnerable victim in a continuing course of conduct, the jury shall unanimously agree that two (2) or more acts in violation of the same statute occurred during the specified period of time. The jury need not agree on which specific acts occurred.
 - (5) If a person is convicted of an offense against a vulnerable victim in a continuing course of conduct, that person may not also be convicted of charges based on the individual unlawful acts that were part of the continuing course of conduct.
 - (6) The penalty, probation and parole eligibility, and other consequences of an offense charged under this section shall be the same as for the offense when charged based on an individual act.
 - (7) The applicability of this section shall be governed by the age of the victim at the time of the offense.

**KRS CHAPTER 502
PARTIES TO OFFENSES – ACCOUNTABILITY**

KRS 502.010 Liability for conduct of innocent or irresponsible person

- (1) A person is guilty of an offense committed by an innocent or irresponsible person when he:
 - (a) Acts with the culpability that is sufficient for commission of that offense; and
 - (b) Causes that innocent or irresponsible person to engage in conduct constituting the offense.
- (2) As used in this section, an "innocent or irresponsible person" includes anyone who is not guilty of the offense in question, despite his participation, because of:
 - (a) Criminal irresponsibility or other legal incapacity or exemption; or
 - (b) Unawareness of the criminal nature of the conduct in question or the defendant's criminal purpose; or
 - (c) Any other factor precluding the mental state sufficient for the commission of the offense in question.

KRS 502.020 Liability for conduct of another – Complicity

- (1) A person is guilty of an offense committed by another person when, with the intention of promoting or facilitating the commission of the offense, he:
 - (a) Solicits, commands, or engages in a conspiracy with such other person to commit the offense; or
 - (b) Aids, counsels, or attempts to aid such person in planning or committing the offense; or
 - (c) Having a legal duty to prevent the commission of the offense, fails to make a proper effort to do so.
- (2) When causing a particular result is an element of an offense, a person who acts with the kind of culpability with respect to the result that is sufficient for the commission of the offense is guilty of that offense when he:
 - (a) Solicits or engages in a conspiracy with another person to engage in the conduct causing such result; or
 - (b) Aids, counsels, or attempts to aid another person in planning, or engaging in the conduct causing such result; or
 - (c) Having a legal duty to prevent the conduct causing the result, fails to make a proper effort to do so.

KRS 502.030 Liability for conduct of another – No defense

In any prosecution for an offense in which the criminal liability of the accused is based upon the conduct of another person pursuant to KRS 502.010 and 502.020, it is no defense that:

- (1) Such other person has not been prosecuted for or convicted of any offense based on the conduct in question, or has previously been acquitted thereof, or has been convicted of a different offense, or has an immunity to prosecution or conviction for such conduct; or
- (2) The offense in question, as defined, can be committed only by a particular class or classes of persons, and the accused, not belonging to such class or classes, is for that reason legally

incapable of committing the offense in an individual capacity.

KRS 502.040 Liability for conduct of another – Exemptions

A person is not guilty under KRS 502.010 or 502.020 for an offense committed by another person when:

- (1) The offense is so defined that his conduct is inevitably incident to its commission; or
- (2) Prior to the commission of the offense, he manifests a voluntary and complete renunciation, as defined in KRS 506.060, of his criminal purposes and:
 - (a) Deprives his prior effort of its effectiveness in such commission; or
 - (b) Gives timely warning to the proper law enforcement authorities or otherwise makes proper effort to prevent commission of the offense.

**KRS CHAPTER 503
GENERAL PRINCIPLES OF JUSTIFICATION**

KRS 503.010 Definitions for chapter

The following definitions apply in this chapter unless the context otherwise requires:

- (1) "**Deadly physical force**" means force which is used with the purpose of causing death or serious physical injury or which the defendant knows to create a substantial risk of causing death or serious physical injury.
- (2) "**Dwelling**" means a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging therein at night.
- (3) "**Imminent**" means impending danger, and, in the context of domestic violence and abuse as defined by KRS 403.720, belief that danger is imminent can be inferred from a past pattern of repeated serious abuse.
- (4) "**Physical force**" means force used upon or directed toward the body of another person and includes confinement.
- (5) "**Residence**" means a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest.
- (6) "**Vehicle**" means a conveyance of any kind, whether or not motorized, which is designed to transport people or property.

KRS 503.020 Justification – A defense

In any prosecution for an offense, justification, as defined in this chapter, is a defense.

KRS 503.030 Choice of evils

- (1) Unless inconsistent with the ensuing sections of this code defining justifiable use of physical force or with some other provisions of law, conduct which would otherwise constitute an offense is justifiable when the defendant believes it to be necessary to avoid an imminent public or private injury greater than the injury which is sought to be prevented by the statute defining the offense charged, except that no justification can exist under this section for an intentional homicide.
- (2) When the defendant believes that conduct which would otherwise constitute an offense is necessary for the purpose described in subsection (1), but is wanton or reckless in having such belief, or when the defendant is wanton or reckless in bringing about a situation requiring the conduct described in subsection (1), the justification afforded by this section is unavailable in a prosecution for any offense for which wantonness or recklessness, as the case may be, suffices to establish culpability.

KRS 503.040 Execution of public duty

- (1) Unless inconsistent with the ensuing sections of this code defining justifiable use of physical force or with some other provisions of law, conduct which would otherwise constitute an offense is justifiable when it is required or authorized by a provision of law imposing a public duty or by a judicial decree.

- (2) The justification afforded by subsection (1) applies when:
 - (a) The defendant believes his conduct to be required or authorized by the judgment or direction of a competent court or tribunal or in the lawful execution of legal process, notwithstanding lack of jurisdiction of the court or defect in the legal process; or
 - (b) The defendant believes his conduct to be required or authorized to assist a public officer in the performance of his duties, notwithstanding that the officer exceeded his legal authority.

KRS 503.050 Use of physical force in self-protection – Admissibility of evidence of prior acts of domestic violence and abuse

- (1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is necessary to protect himself against the use or imminent use of unlawful physical force by the other person.
- (2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when the defendant believes that such force is necessary to protect himself against death, serious physical injury, kidnapping, **sexual intercourse** compelled by force or threat, felony involving the use of force, or under those circumstances permitted pursuant to KRS 503.055.

EDITOR'S NOTE: *As used in this section, "sexual intercourse" includes "deviate sexual intercourse" as defined in KRS 510.010. Boyle v. Com., 694 S.W.2d 711 (Ky App, 1985)*

- (3) Any evidence presented by the defendant to establish the existence of a prior act or acts of domestic violence and abuse as defined in KRS 403.720 by the person against whom the defendant is charged with employing physical force shall be admissible under this section.
- (4) A person does not have a duty to retreat prior to the use of deadly physical force.

KRS 503.055 Use of defensive force regarding dwelling, residence, or occupied vehicle - Exceptions

- (1) A person is presumed to have held a reasonable fear of imminent peril of death or great bodily harm to himself or herself or another when using defensive force that is intended or likely to cause death or great bodily harm to another if:
 - (a) The person against whom the defensive force was used was in the process of unlawfully and forcibly entering or had unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if that person had removed or was attempting to remove another against that person's will from the dwelling, residence, or occupied vehicle; and
 - (b) The person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.
- (2) The presumption set forth in subsection (1) does not apply if:
 - (a) The person against whom the defensive force is used has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, such as an owner, lessee, or titleholder, and there is not an injunction for protection from domestic violence or a written pretrial supervision order of no contact against that person; or
 - (b) The person sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used; or
 - (c) The person who uses defensive force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or
 - (d) The person against whom the defensive force is used is a peace officer, as defined in KRS 446.010, who enters or attempts to enter a dwelling, residence, or vehicle in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law or the person using force knew or reasonably should have known that the person entering or attempting to enter was a peace officer.

- (3) A person who is not engaged in an unlawful activity and who is attacked in any other place where he or she has a right to be has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a felony involving the use of force.
- (4) A person who unlawfully and by force enters or attempts to enter a person's dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or violence.

KRS 503.060 Improper use of physical force in self-protection

Notwithstanding the provisions of KRS 503.050, the use of physical force by a defendant upon another person is not justifiable when:

- (1) The defendant is resisting an arrest by a peace officer, recognized to be acting under color of official authority and using no more force than reasonably necessary to effect the arrest, although the arrest is unlawful; or
- (2) The defendant, with the intention of causing death or serious physical injury to the other person, provokes the use of physical force by such other person; or
- (3) The defendant was the initial aggressor, except that his use of physical force upon the other person under this circumstance is justifiable when:
 - (a) His initial physical force was nondeadly and the force returned by the other is such that he believes himself to be in imminent danger of death or serious physical injury; or
 - (b) He withdraws from the encounter and effectively communicates to the other person his intent to do so and the latter nevertheless continues or threatens the use of unlawful physical force.

KRS 503.070 Protection of another

- (1) The use of physical force by a defendant upon another person is justifiable when:
 - (a) The defendant believes that such force is necessary to protect a third person against the use or imminent use of unlawful physical force by the other person; and
 - (b) Under the circumstances as the defendant believes them to be, the person whom he seeks to protect would himself have been justified under KRS 503.050 and 503.060 in using such protection.
- (2) The use of deadly physical force by a defendant upon another person is justifiable when:
 - (a) The defendant believes that such force is necessary to protect a third person against imminent death, serious physical injury, kidnapping, sexual intercourse compelled by force or threat, or other felony involving the use of force, or under those circumstances permitted pursuant to KRS 503.055. and
 - (b) Under the circumstances as they actually exist, the person whom he seeks to protect would himself have been justified under KRS 503.050 and 503.060 in using such protection.
- (3) A person does not have a duty to retreat if the person is in a place where he or she has a right to be.

KRS 503.080 Protection of property

- (1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is immediately necessary to prevent:
 - (a) The commission of criminal trespass, robbery, burglary, or other felony involving the use of force, or under those circumstances permitted pursuant to KRS 503.055, in a dwelling, building or upon real property in his possession or in the possession of another person for whose protection he acts; or
 - (b) Theft, criminal mischief, or any trespassory taking of tangible, movable property in his possession or in the possession of another person for whose protection he acts.
- (2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when the defendant believes that the person against whom such force is used is:
 - (a) Attempting to dispossess him of his dwelling otherwise than under a claim of right to its possession; or

- (b) Committing or attempting to commit a burglary, robbery, or other felony involving the use of force, or under those circumstances permitted pursuant to KRS 503.055, of such dwelling; or
 - (c) Committing or attempting to commit arson of a dwelling or other building in his possession.
- (3) A person does not have a duty to retreat if the person is in a place where he or she has a right to be.

KRS 503.085 Justification and criminal and civil immunity for use of permitted force - Exceptions

- (1) A person who uses force as permitted in KRS 503.055 in KRS 503.050, 503.070, and 503.080 is justified in using such force and is immune from criminal prosecution and civil action for the use of such force, unless the person against whom the force was used is a peace officer, as defined in KRS 446.010, who was acting in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law, or the person using force knew or reasonably should have known that the person was a peace officer. As used in this subsection, the term "criminal prosecution" includes arresting, detaining in custody, and charging or prosecuting the defendant.
- (2) A law enforcement agency may use standard procedures for investigating the use of force as described in subsection (1) of this section, but the agency may not arrest the person for using force unless it determines that there is probable cause that the force that was used was unlawful.
- (3) The court shall award reasonable attorney's fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant is immune from prosecution as provided in subsection (1).

KRS 503.090 Use of physical force in law enforcement

- (1) The use of physical force by a defendant upon another person is justifiable when the defendant, acting under official authority, is making or assisting in making an arrest, and he:
 - (a) Believes that such force is necessary to effect the arrest;
 - (b) Makes known the purpose of the arrest or believes that it is otherwise known or cannot reasonably be made known to the person to be arrested; and
 - (c) Believes the arrest to be lawful.
- (2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) only when:
 - (a) The defendant, in effecting the arrest, is authorized to act as a peace officer; and
 - (b) The arrest is for a felony involving the use or threatened use of physical force likely to cause death or serious physical injury; and
 - (c) The defendant believes that the person to be arrested is likely to endanger human life unless apprehended without delay.
- (3) The use of physical force, including deadly physical force, by a defendant upon another person is justifiable when the defendant is preventing the escape of an arrested person and when the force could justifiably have been used to effect the arrest under which the person is in custody, except that a guard or other person authorized to act as a peace officer is justified in using any force, including deadly force, which he believes to be necessary to prevent the escape of a person from jail, prison, or other institution for the detention of persons charged with or convicted of a crime.

KRS 503.100 Prevention of a suicide or crime

- (1) The use of physical force by a defendant upon another person is justifiable when the defendant believes that such force is immediately necessary to prevent such other person from:
 - (a) Committing suicide or inflicting serious physical injury upon himself; or
 - (b) Committing a crime involving or threatening serious physical injury to person, substantial damage to or loss of property, or any other violent conduct.
- (2) The use of deadly physical force by a defendant upon another person is justifiable under subsection (1) (b) only when the defendant believes that the person whom he seeks to prevent from committing a crime is likely to endanger human life.
- (3) The limitations imposed on the justifiable use of force in self-protection by KRS 503.050 and 503.060, for the protection of others by KRS 503.070, for the protection of property by KRS

503.080, and for the effectuation of an arrest or the prevention of an escape by KRS 503.090 apply notwithstanding the criminality of the conduct against which such force is used.

KRS 503.110 Use of force by person with responsibility for care, discipline, or safety of others

- (1) The use of physical force by a defendant upon another person is justifiable when the defendant is a parent, guardian, or other person entrusted with the care and supervision of a minor or an incompetent person or when the defendant is a teacher or other person entrusted with the care and supervision of a minor, for a special purpose, and:
 - (a) The defendant believes that the force used is necessary to promote the welfare of a minor or mentally disabled person or, if the defendant's responsibility for the minor or mentally disabled person is for a special purpose, to further that special purpose or maintain reasonable discipline in a school, class, or other group; and
 - (b) The force that is used is not designed to cause or known to create a substantial risk of causing death, serious physical injury, disfigurement, extreme pain, or extreme mental distress.
- (2) The use of physical force by a defendant upon another person is justifiable when the defendant is a warden or other authorized official of a correctional institution, and
 - (a) The defendant believes that the force used is necessary for the purpose of enforcing the lawful rules of the institution;
 - (b) The degree of force used is not forbidden by any statute governing the administration of the institution; and
 - (c) If deadly force is used, its use is otherwise justifiable under this code.
- (3) The use of physical force by a defendant upon another person is justifiable when the defendant is a person responsible for the operation of or the maintenance of order in a vehicle or other carrier of passengers and the defendant believes that such force is necessary to prevent interference with its operation or to maintain order in the vehicle or other carrier, except that deadly physical force may be used only when the defendant believes it necessary to prevent death or serious physical injury.
- (4) The use of physical force by a defendant upon another person is justifiable when the defendant is a doctor or other therapist or a person assisting him at his direction, and:
 - (a) The force is used for the purpose of administering a recognized form of treatment which the defendant believes to be adapted to promoting the physical or mental health of the patient; and
 - (b) The treatment is administered with the consent of the patient or, if the patient is a minor or a mentally disabled person, with the consent of the parent, guardian, or other person legally competent to consent in his behalf, or the treatment is administered in an emergency when the defendant believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

KRS 503.120 Justification – General provisions

- (1) When the defendant believes that the use of force upon or toward the person of another is necessary for any of the purposes for which such belief would establish a justification under KRS 503.050 to 503.110 but the defendant is wanton or reckless in believing the use of any force, or the degree of force used, to be necessary or in acquiring or failing to acquire any knowledge or belief which is material to the justifiability of his use of force, the justification afforded by those sections is unavailable in a prosecution for an offense for which wantonness or recklessness, as the case may be, suffices to establish culpability.
- (2) When the defendant is justified under KRS 503.050 to 503.110 in using force upon or toward the person of another, but he wantonly or recklessly injures or creates a risk of injury to innocent persons, the justification afforded by those sections is unavailable in a prosecution for an offense involving wantonness or recklessness toward innocent persons.

**KRS CHAPTER 504
RESPONSIBILITY
(Selected Sections)**

KRS 504.020 Mental illness or intellectual disability

- (1) A person is not responsible for criminal conduct if at the time of such conduct, as a result of mental illness or intellectual disability, he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law.
- (2) As used in this chapter, the term "**mental illness or intellectual disability**" does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.
- (3) A defendant may prove mental illness or intellectual disability, as used in this section, in exculpation of criminal conduct.

KRS 504.060 Definitions for chapter

As used in this chapter, unless the context otherwise requires:

- (1) "**Department**" means the Department of Corrections;
- (2) "**Forensic psychiatric facility**" means a mental institution or facility, or part thereof, designated by the secretary of the Cabinet for Health Services for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or individuals with an intellectual disability who have been charged with or convicted of a felony;
- (3) "**Foreseeable future**" means not more than three hundred sixty (360) days;
- (4) "**Incompetency to stand trial**" means, as a result of mental condition, lack of capacity to appreciate the nature and consequences of the proceedings against one or to participate rationally in one's own defense;
- (5) "**Insanity**" means, as a result of mental condition, lack of substantial capacity either to appreciate the criminality of one's conduct or to conform one's conduct to the requirements of law;
- (6) "**Mental illness**" means substantially impaired capacity to use self-control, judgment, or discretion in the conduct of one's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;
- (7) "**Individuals with an intellectual disability**" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period and is a condition which may exist concurrently with mental illness or insanity;
- (8) "**Psychiatrist**" means a physician licensed pursuant to KRS Chapter 311 who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
- (9) "**Psychologist**" means a person licensed at the doctoral level pursuant to KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to perform examinations;
- (10) "**Treatment**" means medication or counseling, therapy, psychotherapy, and other professional services provided by or at the direction of psychologists or psychiatrists. "Treatment" shall not include electroshock therapy or psychosurgery; and
- (11) "**Treatment facility**" means an institution or part thereof, approved by the Cabinet for Health Services, which provides evaluation, care, and treatment for insane, mentally ill, or individuals with an intellectual disability on an inpatient or outpatient basis, or both.

KRS 504.090 Incompetent defendant not to be tried

No defendant who is incompetent to stand trial shall be tried, convicted or sentenced so long as the incompetency continues.

KRS 504.120 Verdicts of jury

In cases in which the defendant provides evidence at trial of his mental illness or insanity at the time of the offense, the jury or court may find the defendant:

- (1) Guilty;

- (2) Not guilty;
- (3) Not guilty by reason of insanity at the time of the offense; or
- (4) Guilty but mentally ill at the time of the offense.

KRS 504.130 Grounds for finding defendant guilty but mentally ill

- (1) The defendant may be found guilty but mentally ill if:
 - (a) The prosecution proves beyond a reasonable doubt that the defendant is guilty of an offense; and
 - (b) The defendant proves by a preponderance of the evidence that he was mentally ill at the time of the offense.
- (2) If the defendant waives his right to trial, the court may accept a plea of guilty but mentally ill if it finds that the defendant was mentally ill at the time of the offense.

**KRS CHAPTER 505
PROTECTION AGAINST UNFAIR OR OPPRESSIVE PROSECUTION
(Selected Sections)**

KRS 505.010 Entrapment

- (1) A person is not guilty of an offense arising out of proscribed conduct when:
 - (a) He was induced or encouraged to engage in that conduct by a public servant or by a person acting in cooperation with a public servant seeking to obtain evidence against him for the purpose of criminal prosecution; and
 - (b) At the time of the inducement or encouragement, he was not otherwise disposed to engage in such conduct.
- (2) The relief afforded by subsection (1) is unavailable when:
 - (a) The public servant or the person acting in cooperation with a public servant merely affords the defendant an opportunity to commit an offense; or
 - (b) The offense charged has physical injury or the threat of physical injury as one (1) of its elements and the prosecution is based on conduct causing or threatening such injury to a person other than the person perpetrating the entrapment.
- (3) The relief provided a defendant by subsection (1) is a defense.

KRS 505.020 Prosecution for multiple offenses

- (1) When a single course of conduct of a defendant may establish the commission of more than one (1) offense, he may be prosecuted for each such offense. He may not, however, be convicted of more than one (1) offense when:
 - (a) One offense is included in the other, as defined in subsection (2); or
 - (b) Inconsistent findings of fact are required to establish the commission of the offenses; or
 - (c) The offense is designed to prohibit a continuing course of conduct and the defendant's course of conduct was uninterrupted by legal process, unless the law expressly provides that specific periods of such conduct constitute separate offenses.
- (2) A defendant may be convicted of an offense that is included in any offense with which he is formally charged. An offense is so included when:
 - (a) It is established by proof of the same or less than all the facts required to establish the commission of the offense charged; or
 - (b) It consists of an attempt to commit the offense charged or to commit an offense otherwise included therein; or
 - (c) It differs from the offense charged only in the respect that a lesser kind of culpability suffices to establish its commission; or
 - (d) It differs from the offense charged only in the respect that a less serious injury or risk of injury to the same person, property or public interest suffices to establish its commission.

**KRS CHAPTER 506
INCHOATE OFFENSES**

KRS 506.010 Criminal attempt

- (1) A person is guilty of criminal attempt to commit a crime when, acting with the kind of culpability otherwise required for commission of the crime, he:
 - (a) Intentionally engages in conduct which would constitute the crime if the attendant circumstances were as he believes them to be; or
 - (b) Intentionally does or omits to do anything which, under the circumstances as he believes them to be, is a substantial step in a course of conduct planned to culminate in his commission of the crime.
- (2) Conduct shall not be held to constitute a substantial step under subsection (1) (b) unless it is an act or omission which leaves no reasonable doubt as to the defendant's intention to commit the crime which he is charged with attempting.
- (3) A person is guilty of criminal attempt to commit a crime when he engages in conduct intended to aid another person to commit that crime, although the crime is not committed or attempted by the other person, provided that his conduct would establish complicity under KRS 502.020 if the crime were committed by the other person.
- (4) A criminal attempt is a:
 - (a) Class C felony when the crime attempted is a violation of KRS 521.020 [*Bribery of a public servant*] or 521.050 [*Providing pecuniary benefit for bribery of a public servant*];
 - (b) Class B felony when the crime attempted is a Class A felony or capital offense;
 - (c) Class C felony when the crime attempted is a Class B felony;
 - (d) Class A misdemeanor when the crime attempted is a Class C or D felony;
 - (e) Class B misdemeanor when the crime attempted is a misdemeanor.

KRS 506.020 Criminal attempt – Defense of renunciation

- (1) In any prosecution for criminal attempt to commit a crime, it is a defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal purpose, the defendant abandoned his effort to commit the crime and, if mere abandonment was insufficient to avoid the commission of the crime, took the necessary affirmative steps to prevent its commission.
- (2) A renunciation is not "voluntary and complete" within the meaning of this section if it is motivated in whole or in part by:
 - (a) A belief that circumstances exist which pose a particular threat of apprehension or detection of the accused or another participant in the criminal enterprise or which render more difficult the accomplishment of the criminal purpose; or
 - (b) A decision to postpone the criminal conduct until another time or to transfer the criminal effort to another victim or another but similar object.

KRS 506.030 Criminal solicitation

- (1) A person is guilty of criminal solicitation when, with the intent of promoting or facilitating the commission of a crime, he commands or encourages another person to engage in specific conduct which would constitute that crime or an attempt to commit that crime or which would establish the other's complicity in its commission or attempted commission.
- (2) A criminal solicitation is a:
 - (a) Class C felony when the crime solicited is a violation of KRS 521.020 or 521.050;
 - (b) Class B felony when the crime solicited is a Class A felony or capital offense;
 - (c) Class C felony when the crime solicited is a Class B felony;
 - (d) Class A misdemeanor when the crime solicited is a Class C or D felony;
 - (e) Class B misdemeanor when the crime solicited is a misdemeanor.

KRS 506.040 Criminal conspiracy

- (1) A person having the intention of promoting or facilitating the commission of a crime is guilty of criminal conspiracy when he:
 - (a) Agrees with one (1) or more persons that at least one (1) of them will engage in conduct constituting that crime or an attempt or solicitation to commit such a crime; or
 - (b) Agrees to aid one or more persons in the planning or commission of that crime or an attempt or solicitation to commit such a crime.
- (2) Except as provided in a specific statute to the contrary, a criminal conspiracy is a:
 - (a) Class C felony when the conspiratorial agreement is a violation of KRS 521.020 or 521.050;
 - (b) Class B felony when the object of the conspiratorial agreement is a Class A felony or capital offense;
 - (c) Class C felony when the object of the conspiratorial agreement is a Class B felony;
 - (d) Class A misdemeanor when the object of the conspiratorial agreement is a Class C or D felony;
 - (e) Class B misdemeanor when the object of the conspiratorial agreement is a misdemeanor.

KRS 506.050 Conspiracy – General provisions

- (1) No person may be convicted of conspiracy to commit a crime unless an overt act in furtherance of the conspiracy is alleged and proved to have been committed by one (1) of the conspirators.
- (2) A person who conspires to commit more than one (1) crime, all of which are the object of the same agreement or continuous conspiratorial relationship, is guilty of only one (1) conspiracy. The classification of this crime under subsection (2) of KRS 506.040 shall be determined by the most serious offense which he is found guilty of conspiring to commit.
- (3) If a person guilty of conspiracy, as defined by KRS 506.040, knows that a person with whom he conspires to commit a crime has conspired with another person or persons to commit the same crime, he is guilty of conspiring to commit the crime with the other person or persons, whether or not he knows their identity.
- (4) No person may be convicted of conspiracy to commit a crime when an element of that crime is agreement with the person with whom he is alleged to have conspired or when that crime is so defined that his conduct is an inevitable incident to its commission.

KRS 506.060 Criminal solicitation or conspiracy – Defense of renunciation

- (1) In any prosecution for criminal solicitation or criminal conspiracy in which the crime solicited or the crime contemplated by the conspiracy was not in fact committed, it is a defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal purpose, the defendant prevented the commission of the crime.
- (2) A renunciation is not "voluntary and complete" within the meaning of this section when it is motivated in whole or in part by:
 - (a) A belief that circumstances exist which pose a particular threat of apprehension or detection of the accused or another participant in the criminal enterprise or which render more difficult the accomplishment of the criminal purpose; or
 - (b) A decision to postpone the criminal conduct until another time or to transfer the criminal effort to another victim or another but similar object.

KRS 506.070 Incapacity or solicitee or co-conspirator

- (1) It is no defense to a prosecution for criminal solicitation that the person solicited could not be guilty of the crime solicited because of:
 - (a) Criminal irresponsibility or other legal incapacity or exemption; or
 - (b) Unawareness of the criminal nature of the conduct solicited or of the defendant's criminal purpose; or
 - (c) Any other factor precluding the mental state required for the commission of the crime solicited.

- (2) It is no defense to a prosecution for criminal conspiracy that a co-conspirator could not be guilty of the conspiracy or the crime contemplated by the conspiracy because of:
 - (a) Criminal irresponsibility or other legal incapacity or exemption; or
 - (b) Unawareness of the criminal nature of the conspiracy or the conduct contemplated by the conspiracy or of the defendant's criminal purpose; or
 - (c) Any other factor precluding the mental state required for the commission of the conspiracy or the crime contemplated by the conspiracy.
- (3) A defendant cannot be convicted of conspiracy if all of his co-conspirators have been acquitted or discharged under circumstances amounting to an acquittal.

KRS 506.080 Criminal facilitation

- (1) A person is guilty of criminal facilitation when, acting with knowledge that another person is committing or intends to commit a crime, he engages in conduct which knowingly provides such person with means or opportunity for the commission of the crime and which in fact aids such person to commit the crime.
- (2) Criminal facilitation is a:
 - (a) Class D felony when the crime facilitated is a Class A or Class B felony or capital offense;
 - (b) Class A misdemeanor when the crime facilitated is a Class C or Class D felony;
 - (c) Class B misdemeanor when the crime facilitated is a misdemeanor.

KRS 506.090 Criminal facilitation – No defense

In any prosecution for criminal facilitation, it is no defense that:

- (1) The person facilitated could not be guilty of the crime facilitated because of criminal irresponsibility or other legal incapacity or exemption, unawareness of the criminal nature of the conduct facilitated, or any other factor precluding the mental state required for commission of the crime facilitated; or
- (2) The person facilitated has not been prosecuted for or convicted of the crime facilitated, or has been convicted of a different crime, or has an immunity to prosecution or conviction for such conduct; or
- (3) The crime facilitated can be committed only by a particular class or classes of persons, and the accused, not belonging to such class or classes, is for that reason legally incapable of committing the crime in an individual capacity.

KRS 506.100 Criminal facilitation -- Exemptions

A person is not guilty of criminal facilitation when:

- (1) The crime facilitated is so defined that his conduct is inevitably incident to its commission; or
- (2) Prior to the commission of the crime facilitated he makes a substantial effort to prevent the commission of that crime.

KRS 506.110 Multiple convictions

- (1) A person may not be convicted on the basis of the same course of conduct of both the actual commission of a crime and:
 - (a) A criminal attempt to commit that crime; or
 - (b) A criminal solicitation of that crime; or
 - (c) A criminal facilitation of that crime; or
 - (d) A conspiracy to commit that crime, except as provided in subsection (2) of this section.
- (2) A person may be convicted on the basis of the same course of conduct of both the actual commission of a crime and a conspiracy to commit that crime when the conspiracy from which the consummated crime resulted had as an objective of the conspiratorial relationship the commission of more than one (1) crime.
- (3) A person may not be convicted of more than one (1) of the offenses defined in KRS 506.010, 506.030, 506.040 and 506.080 for a single course of conduct designed to consummate in the commission of the same crime.

KRS 506.120 Engaging in organized crime

- (1) A person, with the purpose to establish or maintain a criminal syndicate or to facilitate any of its activities, shall not do any of the following:
- (a) Organize or participate in organizing a criminal syndicate or any of its activities;
 - (b) Provide material aid to a criminal syndicate or any of its activities, whether such aid is in the form of money or other property, or credit;
 - (c) Manage, supervise, or direct any of the activities of a criminal syndicate, at any level of responsibility;
 - (d) Knowingly furnish legal, accounting, or other managerial services to a criminal syndicate;
 - (e) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of, any offense of a type in which a criminal syndicate engages on a continuing basis;
 - (f) Commit, or conspire or attempt to commit or act as an accomplice in the commission of, any offense of violence;
 - (g) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of bribery in violation of KRS Chapters 518 [*Miscellaneous crimes affecting businesses, occupations and professions*] or 521 [*Bribery and corrupt influences*] or KRS 119.205, [*Making or receiving expenditures for vote, for withholding of vote, or for signing a petition to have public question on ballot*], 121.025 [*Corporate contribution to candidate*], 121.055 [*Candidate obligating self for actions to be taken when elected*], 524.070 [*Bribe receiving by a juror*], 156.465 [*Giving reward to department of education personnel for adoption of books*], 45A.340 [*Conflicts of interest of public officers and employees under model procurement code*], 63.090 [*Neglect of duty*], 6.080 [*Refusal to testify before legislature or attempt to corrupt legislator*], 18A.145 [*Other acts prohibited by state personnel*], or 244.600 [*Commercial bribery unlawful*];
 - (h) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of more than one (1) theft of retail merchandise with the intent to resell the stolen merchandise; or
 - (i) Acquire stolen retail merchandise for the purpose of reselling it where the person knew or should have known that the merchandise had been stolen.
- (2) Whoever violates this section is guilty of engaging in organized crime, which shall be a Class B felony, unless the offense involves only the theft or acquisition of retail merchandise for the purpose of reselling it in which case it shall be a Class C felony.
- (3) As used in this section "criminal syndicate" means five (5) or more persons, or, in cases of merchandise theft from a retail store for the purpose of reselling the stolen merchandise, two (2) or more persons, collaborating to promote or engage in any of the following on a continuing basis:
- (a) Extortion or coercion in violation of KRS 514.080 [*Theft by extortion*] or 521.020 [*Bribery of a public servant*];
 - (b) Engaging in, promoting, or permitting prostitution or human trafficking in violation of KRS Chapter 529 [*Prostitution offenses*];
 - (c) Any theft offense as defined in KRS Chapter 514 [*Theft and related offenses*];
 - (d) Any gambling offense as defined in KRS 411.090 [*Gaming on premises without permission*], KRS Chapter 528 [*Gambling*], or Section 226 of the Constitution [*State lottery*];
 - (e) Illegal trafficking in controlled substances as prohibited by KRS Chapter 218A, in intoxicating or spirituous liquor as defined in KRS Chapters 242 or 244, or in destructive devices or booby traps as defined in KRS Chapter 237;
 - (f) Lending at usurious interest, and enforcing repayment by illegal means in violation of KRS Chapter 360.

KRS 506.140 Criminal gang recruitment – Definitions for chapter

- (1) A person is guilty of criminal gang recruitment when he solicits or entices another person to join a criminal gang, or intimidates or threatens another person because the other person:
- (a) Refuses to join a criminal gang;
 - (b) Has withdrawn or is attempting to withdraw from a criminal gang; or
 - (c) Refuses to submit to a demand made by a criminal gang.

- (2) As used in this chapter:
- (a) **"Criminal gang"** means any alliance, network, or conspiracy, in law or in fact, of five (5) or more persons with an established hierarchy that, through its membership or through the action of any member, engages in a continuing pattern of criminal activity. "Criminal gang" shall not include fraternal organizations, unions, corporations, associations, or similar entities, unless organized for the primary purpose of engaging in criminal activity.
 - (b) **"Continuing pattern of criminal activity"** means a conviction by any member or members of a criminal gang for the commission, attempt, or solicitation of two (2) or more felony offenses, the commission of two (2) or more violent misdemeanor offenses, or a combination of at least one (1) of these felony offenses and one (1) of these violent misdemeanor offenses, on separate occasions within a two (2) year period for the purpose of furthering gang activity.
 - (c) **"Violent misdemeanor offense"** means KRS 508.030 [*Assault in the fourth degree*], 508.050 [*Menacing*], 508.070 [*Wanton endangerment in the second degree*], 508.080 [*Terroristic threatening in the third degree*], 508.120 [*Criminal abuse in the third degree*], 508.150 [*Stalking in the second degree*], 509.030 [*Unlawful imprisonment in the second degree*], and 509.080 [*Criminal coercion*].
- (3) Criminal gang recruitment is a Class A misdemeanor for the first offense and a Class D felony for a second or subsequent offense.

KRS 506.150 Criminal gang activity or recruitment – Actions not constituting defenses

- (1) To establish the existence of a "criminal gang" as defined in KRS 506.140, any competent evidence that is probative of the existence of or membership in a criminal gang shall be admissible, including the following:
- (a) Self-proclamation;
 - (b) A common name, insignia, flag, or means of recognition;
 - (c) Common identifying hand or body signs, signals, or code;
 - (d) A common identifying mode, style, or color of dress;
 - (e) An identifying tattoo or body marking;
 - (f) Membership, age, or other qualifications;
 - (g) Creed of belief;
 - (h) An organizational or command structure, overt or covert;
 - (i) A de facto claim of territory or jurisdiction;
 - (j) An initiation ritual;
 - (k) A concentration or specialty; or
 - (l) A method of operation or criminal enterprise.
- (2) It is no defense to prosecution under KRS 506.140 that:
- (a) One (1) or more members of the gang are not criminally responsible for the offense;
 - (b) One (1) or more members of the gang have been acquitted, have not been prosecuted or convicted, have been convicted of a different offense, or are under prosecution;
 - (c) A person has been charged with, acquitted, or convicted of any offense under KRS 506.140;
 - (d) The participants may not know each other's identity;
 - (e) The membership in the criminal gang may change from time to time; or
 - (f) The participants may stand in a wholesaler-retailer or other arm's length arrangement in the conduct of illicit distribution or other operations.
- (3) Once the initial combination of five (5) or more persons is formed, the number or identity of persons remaining in the gang is immaterial as long as four (4) or more persons in the gang, excluding the defendant, are involved in a continuing pattern of criminal activity as defined in KRS 506.140 constituting a violation of KRS 506.140.