

**KRS CHAPTER 528
GAMBLING**

KRS 528.010 Definitions

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

- (1) **"Advancing gambling activity"** -- A person "advances gambling activity" when, acting other than as a player, he engages in conduct that materially aids any form of gambling activity. The conduct shall include, but is not limited to, conduct directed toward the establishment of the particular game, contest, scheme, device, or activity involved; toward the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor; toward the solicitation or inducement of persons to participate therein; toward the actual conduct of the playing phases thereof; toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person who gambles at a social game of chance on equal terms with other participants does not otherwise advance gambling activity by performing acts, without remuneration or fee, directed toward the arrangement or facilitation of the game as inviting persons to play, permitting the use of premises therefor and supplying equipment used therein.
- (2) **"Bookmaking"** means advancing gambling activity by unlawfully accepting bets upon the outcome of future contingent events from members of the public as a business.
- (3) (a) **"Gambling"** means staking or risking something of value upon the outcome of a contest, game, gaming scheme, or gaming device which is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome. A contest or game in which eligibility to participate is determined by chance and the ultimate winner is determined by skill shall not be considered to be gambling.
(b) Gambling shall not mean charitable gaming which is licensed and regulated under the provisions of KRS Chapter 238.
- (4) **"Gambling device"** means:
 - (a) Any so-called slot machine or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and which when operated may deliver, as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property;
 - (b) Any mechanical or electronic device permanently located in a business establishment, including a private club, that is offered or made available to a person to play or participate in a simulated gambling program in return for direct or indirect consideration, including but not limited to consideration paid for Internet access or computer time, or a sweepstakes entry, which when operated may deliver as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as a result of the application of an element of chance, any money or property; or
 - (c) Any other machine or any mechanical or other device, including but not limited to roulette wheels, gambling tables and similar devices, designed and manufactured primarily for use in connection with gambling and which when operated may deliver, as the result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property;
 - (d) But, the following shall not be considered gambling devices within this definition:
 1. Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks.
 2. Devices dispensing or selling combination or French Pools on historical races at licensed, regular racetracks as lawfully authorized by the Kentucky Horse Racing Commission.
 3. Electro-mechanical pinball machines specially designed, constructed, set up, and kept to be played for amusement only. Any pinball machine shall be made to receive and react only to the deposit of coins during the course of a game. The ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any pinball machine shall be the right to play one (1) or more additional games immediately on the same device at no further cost. The maximum number of free

games that can be won, registered, or accumulated at one (1) time in operation of any pinball machine shall not exceed thirty (30) free games. Any pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released. Any pinball machine shall be made and kept with no meter or system to preserve a record of free games played, awarded, or discharged. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums, or property of any kind for scores, combinations, or free games obtained in playing the pinball machine in which the person has an interest as owner, operator, keeper, or otherwise.

4. Devices used in the conduct of charitable gaming.
- (5) **"Lottery and gift enterprise"** means:
 - (a) A gambling scheme in which:
 1. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one (1) or more of which are to be designated the winning ones; and
 2. The ultimate winner is to be determined by a drawing or by some other method based upon the element of chance; and
 3. The holders of the winning chances are to receive something of value.
 - (b) A gift enterprise or referral sales plan which meets the elements of a lottery listed in paragraph (a) of this subsection is to be considered a lottery under this chapter.
- (6) **"Mutuel"** or **"the numbers games"** means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.
- (7) **"Player"** means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct, or operation of the particular gambling activity. A person who engages in "bookmaking" as defined in subsection (2) of this section is not a "player." The status of a "player" shall be a defense to any prosecution under this chapter.
- (8) **"Profiting from gambling activity"** -- A person "profits from gambling activity" when, other than as a player, he accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity.
- (9) **"Simulated gambling program"** means any method intended to be used by a person playing, participating, or interacting with an electronic device that may, through the application of an element of chance, either deliver money or property or an entitlement to receive money or property.
- (10) **"Something of value"** means any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment, or a privilege of playing at a game or scheme without charge.
- (11) **"Charitable gaming"** means games of chance conducted by charitable organizations licensed and regulated under the provisions of KRS Chapter 238.

KRS 528.020 Promoting gambling in the first degree

- (1) A person is guilty of promoting gambling in the first degree when he knowingly advances or profits from unlawful gambling activity by:
 - (a) Engaging in bookmaking to the extent that he employs or utilizes three or more persons in a bookmaking activity and receives or accepts in any one day bets totaling more than \$500; or
 - (b) Receiving in connection with a lottery or mutuel scheme or enterprise:

- (i) Money or written records from a person other than a player whose chances or plays are represented by such money or records; or
 - (ii) More than \$500 in any one day of money played in the scheme or enterprise; or
 - (c) Setting up and operating a gambling device
- (2) Promoting gambling in the first degree is a Class D felony

KRS 528.030 Promoting gambling in the second degree

- (1) A person is guilty of promoting gambling in the second degree when he knowingly advances or profits from unlawful gambling activity.
- (2) Promoting gambling in the second degree is a Class A misdemeanor.

KRS 528.040 Conspiracy to promote gambling

- (1) A person is guilty of conspiracy to promote gambling when he conspires to advance or profit from gambling activity.
- (2) "**Conspire**" means to engage in activity constituting a criminal conspiracy as defined in KRS 506.040.
- (3) Conspiracy to promote gambling is a Class D felony.

KRS 528.050 Possession of gambling records in the first degree

- (1) A person is guilty of possession of gambling records in the first degree when, with knowledge of the contents thereof, he possesses any writing, paper, instrument or article of a kind commonly used:
 - (a) In the operation or promotion of a bookmaking scheme or enterprise and constituting, reflecting or representing bets totaling more than \$500; or
 - (b) In the operation, promotion or playing of a lottery or mutuel scheme or enterprise and constituting, reflecting or representing more than 500 plays or chances therein.
- (2) It shall be a defense to any prosecution under this section that:
 - (a) The writing, paper, instrument or article possessed by the defendant constituted, reflected or represented bets of the defendant himself in a number not exceeding ten; or
 - (b) The writing, paper, instrument or article possessed by the defendant was neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion, or playing of a lottery or mutuel scheme or enterprise.
- (3) Possession of gambling records in the first degree is a Class D felony.

KRS 528.060 Possession of gambling records in the second degree

- (1) A person is guilty of possession of gambling records in the second degree when, with knowledge of the contents thereof he possesses any writing, paper, instrument or articles of a kind commonly used:
 - (a) In the operation or promotion of a bookmaking scheme or enterprise; or
 - (b) In the operation, promotion or playing of a lottery or mutuel scheme or enterprise.
- (2) It shall be a defense to any prosecution under this section that:
 - (a) The writing, paper, instrument, or article possessed by the defendant constituted, reflected, or represented bets of the defendant himself in a number not exceeding ten: or
 - (b) The writing, paper, instrument, or article possessed by the defendant was neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion, or playing of a lottery or mutuel scheme or enterprise.
- (3) Possession of gambling records in the second degree is a Class A misdemeanor.

KRS 528.070 Permitting gambling

- (1) A person is guilty of permitting gambling when, having possession or control of premises which he knows are being used to advance gambling activity, he fails to halt or abate or attempt to halt or abate such use within a reasonable period of time.
- (2) Permitting gambling is a Class B misdemeanor.

KRS 528.080 Possession of a gambling device

- (1) A person is guilty of possession of a gambling device when, with knowledge of the character thereof, he manufactures, sells, transports, places or possesses a gambling device or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of any gambling device, believing that it is to be used in the advancement of unlawful gambling activity.
- (2) Possession of a gambling device is a Class A misdemeanor.

KRS 528.100 Forfeiture

Any gambling device or gambling record possessed or used in violation of this chapter is forfeited to the state, and shall be disposed of in accordance with KRS 500.090, except that the provisions of this section shall not apply to charitable gaming activity as defined by KRS 528.010(10).

KRS 528.110 Horse races, messenger betting prohibited - Exception

- (1) Any person who, either for himself or as agent or employee of another, wagers money or anything of value on a horse race run or about to be run or advertised, posted or reported as being run at any race track in or out of this state, or who engages in the occupation of receiving, making, transmitting or negotiating, either in person or by messenger, telephone or telegraph, wagers on horse races run or about to be run or advertised, posted or reported as being run or about to be run at any race track in or out of the state, shall, except in the case of wagers made within the enclosure of a race track licensed by the Kentucky Horse Racing Authority during an authorized race meeting at that track, or an enclosure during regular meetings in which running, trotting or pacing races are being conducted by associations regularly organized for that purpose, be guilty of a Class A misdemeanor.
- (2) In any prosecution under subsection (1) of this section, the state need not prove that the horse race upon which the wager was placed was actually run. Proof that the wager was made upon what purported to be or what was advertised, reported or understood to be a horse race shall be sufficient to establish a prima facie case for the state.

KRS 528.120 Off-track acceptance of money for pari-mutuel wagering

- (1) No person, as a business or for any compensation, shall, directly or indirectly, accept any thing of value to be wagered or to be transmitted or delivered for wager to any pari-mutuel wagering enterprise, or participate in any such transmission.
- (2) As used herein, "**person**" shall mean and include any individual, partnership, association, joint stock association or trust, corporation, or other business entity, whether incorporated or not.
- (3) Any person violating any of the provisions of this section shall be guilty of a Class A misdemeanor.

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**KRS CHAPTER 529
PROSTITUTION OFFENSES**

KRS 529.010 Definitions

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

- (1) "**Advancing prostitution**"--A person "advances prostitution" when acting other than as a prostitute or as a patron thereof, he or she knowingly causes or aids a person to engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any conduct designed to institute, aid or facilitate an act or enterprise of prostitution.
 - (2) "**Commercial sexual activity**" means prostitution, regardless of whether the trafficked person can be charged with prostitution, participation in the production of obscene material as set out in KRS Chapter 531, or engaging in a sexually explicit performance;
 - (3) "**Forced labor or services**" means labor or services that are performed or provided by another person and that are obtained through force, fraud or coercion;
 - (4) "**Force, fraud, or coercion**" may only be accomplished by the same means and methods as a person may be restrained under KRS 509.010;
 - (5) "**Human trafficking**" refers to criminal activity whereby one (1) or more persons are subjected to engaging in:
 - (a) Forced labor or services; or
 - (b) Commercial sexual activity through the use of force, fraud, or coercion, except that if the trafficked person is under the age of eighteen (18), the commercial sexual activity need not involve force, fraud, or coercion;
- * * * * *
- (7) "**Labor**" means work of economic or financial value;
 - (8) "**Minor**" means a person under the age of eighteen (18) years;
 - (9) "**Profiting from prostitution**"--A person "profits from prostitution" when acting other than as a prostitute receiving compensation for personally rendered prostitution services, he or she knowingly accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he or she participates or is to participate in proceeds of prostitution activity.
 - (10) "**Services**" means an ongoing relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor;
 - (11) "**Sexual conduct**" means sexual intercourse or any act of sexual gratification involving the sex organs;
 - (12) "**Sexually-explicit performance**" means a performance of sexual conduct involving:
 - (a) Acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviate sexual intercourse, actual or simulated;
 - (b) Physical contact with, or willful or intentional exhibition of the genitals;
 - (c) Flagellation or excretion for the purpose of sexual stimulation or gratification; or
 - (d) The exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area or buttocks, or the female breast, whether or not subsequently obscured by a mark placed thereon, or otherwise altered, in any resulting motion picture, photograph or other visual representation, exclusive of exposure portrayed in a matter of a private, family nature not intended for distribution outside the family; and
 - (13) "**Victim of human trafficking**" is a person who has been subjected to human trafficking.

KRS 529.020 Prostitution

- (1) Except as provided in KRS 529.120, a person is guilty of prostitution when he engages or agrees or offers to engage in sexual conduct with another person in return for a fee.
- (2) Prostitution is a Class B misdemeanor.

KRS 529.040 Promoting prostitution

- (1) A person is guilty of promoting prostitution when he knowingly advances or profits from prostitution.
- (2) Promoting prostitution is a Class A misdemeanor, unless the person managed, supervised, controlled or owned, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two (2) or more prostitutes, in which case it is a Class D felony.

KRS 529.060 Corroboration

- (1) No person shall be convicted of prostitution solely on the uncorroborated testimony of a patron.
- (2) No person shall be convicted of promoting prostitution solely on the uncorroborated testimony of a person whose prostitution activity he is alleged to have advanced or from whose prostitution activity he is alleged to have profited.

KRS 529.070 Permitting prostitution

- (1) A person is guilty of permitting prostitution when, having possession or control of premises which he knows or has reasonable cause to know are being used for prostitution purposes, he fails to make reasonable and timely effort to halt or abate such use.
- (2) Permitting prostitution is a Class B misdemeanor.

KRS 529.080 Loitering for prostitution purposes

- (1) Except as provided in KRS 529.120, a person is guilty of loitering for prostitution purposes when he loiters or remains in a public place for the purpose of engaging or agreeing or offering to engage in prostitution.
- (2) Loitering for prostitution purposes is a:
 - (a) Violation for the first offense;
 - (b) Class B misdemeanor for the second offense and each subsequent offense.

KRS 529.090 Persons convicted required to submit to screening for HIV infection – Prostitution or procuring prostitution with knowledge of sexually transmitted disease or HIV

- (1) Any person convicted of prostitution or procuring another to commit prostitution under the provisions of KRS 529.020 shall be required to undergo screening for human immunodeficiency virus infection under direction of the Cabinet for Human Resources and, if infected, shall submit to treatment and counseling as a condition of release from probation, community control, or incarceration. Notwithstanding the provisions of KRS 214.420, the results of any test conducted pursuant to this subsection shall be made available by the Cabinet for Human Resources to medical personnel, appropriate state agencies, or courts of appropriate jurisdiction to enforce the provisions of this chapter.
- (2) Any person who commits prostitution and who, prior to the commission of the crime, had tested positive for a sexually transmitted disease and knew or had been informed that he had tested positive for a sexually transmitted disease pursuant to KRS 214.410 and that he could possibly communicate such disease to another person through sexual activity is guilty of a Class A misdemeanor. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.
- (3) Any person who commits, offers or agrees to commit prostitution by engaging in sexual activity in a manner likely to transmit the human immunodeficiency virus and who, prior to the commission of the crime, had tested positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate the disease to another person through sexual activity is guilty of a Class D felony. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.
- (4) Any person convicted of procuring another to commit prostitution in a manner likely to transmit the human immunodeficiency virus and who, prior to the commission of the crime, had tested

positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate the disease to another person through sexual activity is guilty of a Class D felony.

KRS 529.100 Human trafficking

- (1) A person is guilty of human trafficking when the person intentionally subjects one (1) or more persons to human trafficking.
- (2) (a) Human trafficking is a Class C felony unless it involves serious physical injury to a trafficked person, in which case it is a Class B felony.
- (b) If the victim of human trafficking is under eighteen (18) years of age, the penalty for the offense shall be one (1) level higher than the level otherwise specified in this section.

KRS 529.110 Promoting human trafficking

- (1) A person is guilty of promoting human trafficking when the person intentionally:
 - (a) Benefits financially or receives anything of value from knowing participation in human trafficking; or
 - (b) Recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, or provide, or obtain by any means, another person, knowing that the person will be subject to human trafficking.
- (2) Promoting human trafficking is a Class D felony, unless a victim of the trafficking is under eighteen (18), in which case it is a Class C felony.

KRS 529.120 Treatment of minor suspected of prostitution offense

- (1) Notwithstanding KRS 529.020 or KRS 529.080, if it is determined after a reasonable period of custody for investigative purposes, that the person suspected of prostitution or loitering for prostitution is under the age of eighteen (18), then the minor shall not be prosecuted for an offense under KRS 529.020 or KRS 529.080.
- (2) A law enforcement officer who takes a minor into custody under subsection (1) of this section shall immediately make a report to the Cabinet for Health and Family Services pursuant to KRS 620.030. Pursuant to KRS 620.040, the officer may take the minor into protective custody.
- (3) The Cabinet for Health and Family Services shall commence an investigation into child dependency, neglect, or abuse pursuant to KRS 620.029.

KRS 529.160 Expungement of records relating to violation of chapter when person charged or convicted was a victim of human trafficking at time of offense – Motion – Finding – Presumption

- (1) When a person is charged or convicted under this chapter, or with an offense which is not a violent crime as defined in KRS 17.165, and the person's participation in the offense is determined to be the direct result of being a victim of human trafficking, the person may make a motion in the court in which the charges were filed to expunge all records of the offense.
- (2) The motion shall be filed no sooner than sixty (60) days following the date the final judgment was entered by the court in which the charges were filed.
- (3) (a) A motion filed under this section, any hearing conducted on the motion, and any relief granted, are governed by KRS 431.076, 431.078, and 431.079 unless otherwise provided in this section.
- (b) For the purposes of expungement under KRS 431.076, a finding by the court that the person's participation in the offense was a direct result of being a victim of human trafficking shall deem the charges as dismissed with prejudice.
- (c) No official determination or documentation is required to find that the person's participation in the offense was a direct result of being a victim of human trafficking, but documentation from a federal, state, local, or tribal governmental agency indicating that the defendant was a victim at the time of the offense shall create a presumption that the defendant's participation in the offense was a direct result of being a victim.

KRS 529.170 Being victim of human trafficking is affirmative defense to violation of chapter

A person charged under this chapter, or charged with an offense which is not a violent crime as defined in KRS 17.165, may assert being a victim of human trafficking as an affirmative defense to the charge.

KRS 529.180 Ignorance of human trafficking minor victim's actual age not a defense

In any prosecution under KRS 529.100 or 529.110 involving commercial sexual activity with a minor, it shall not be a defense that the defendant was unaware of the minor's actual age.

**KRS CHAPTER 530
FAMILY OFFENSES**

KRS 530.010 Bigamy--Defense

- (1) A person is guilty of bigamy when he:
 - (a) Purports to marry another person knowing he has a husband or wife or knowing the other person has a husband or wife; or
 - (b) Cohabits in this state after a bigamous marriage in another state.
- (2) It shall be a defense to bigamy that the accused believed he was legally eligible to remarry.
- (3) Bigamy is a Class D felony.

KRS 530.020 Incest

- (1) A person is guilty of incest when he or she has sexual intercourse or deviate sexual intercourse, as defined in KRS 510.010, with a person whom he or she knows to be an ancestor, descendant, uncle, aunt, brother, or sister. 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, and relationship of stepparent and stepchild, and relationship of step-grandparent and step-grandchild.
- (2) (a) Incest is a Class C felony if the act is committed by consenting adults.
- (b) Incest is a Class B felony if committed:
 1. By forcible compulsion as defined in KRS 510.010(2); or
 2. On a victim who is:
 - a. Less than eighteen (18) years of age; or
 - b. Incapable of consent because he or she is physically helpless or mentally incapacitated.
- (c) Incest is a Class A felony if:
 1. Committed on a victim less than twelve (12) years of age; or
 2. The victim receives serious physical injury.

KRS 530.030 Concealing birth of infant

- (1) A person is guilty of concealing the birth of an infant when he conceals the corpse of a newborn child with intent to conceal the fact of its birth or to prevent a determination of whether it was born dead or alive.
- (2) Concealing the birth of an infant is a Class A misdemeanor.

KRS 530.040 Abandonment of minor

- (1) A person is guilty of abandonment of a minor when, as a parent, guardian or other person legally charged with the care or custody of a minor, he deserts the minor in any place under circumstances endangering his life or health and with intent to abandon him.
- (2) Abandonment of a minor is a Class D felony.

KRS 530.050 Nonsupport and flagrant nonsupport

- (1) A person is guilty of nonsupport:
 - (a) When he persistently fails to provide support which he can reasonably provide and which he knows he has a duty to provide to a minor or to a child adjudged mentally disabled, indigent spouse or indigent parent; or
 - (b) Upon a finding that a defendant obligor, subject to court order to pay any amount for the support of a minor child, is delinquent in meeting the full obligation established by such order and has been so delinquent for a period of at least two (2) months duration.
- (2) A person is guilty of flagrant nonsupport when he persistently fails to provide support which he can reasonably provide and which he knows he has a duty to provide by virtue of a court or administrative order to a minor or to a child adjudged mentally disabled, indigent spouse or indigent parent and the failure results in:
 - (a) An arrearage of not less than one thousand dollars (\$1,000); or
 - (b) Six (6) consecutive months without payment of support; or
 - (c) The dependent having been placed in destitute circumstances. For the purposes of this paragraph, it shall be prima facie evidence that a dependent has been placed in destitute circumstances if the dependent is a recipient of public assistance as defined in KRS 205.010.
- (3) A person has a duty to provide support for an indigent spouse, a minor child or children, or a child or children adjudged mentally disabled and, for purposes of this section, is presumed to know of that duty.
- (4) Any person who is eighteen (18) years of age or over, residing in this state and having in this state a parent who is destitute of means of subsistence and unable because of old age, infirmity, or illness to support himself or herself, has a duty to provide support for such parent and, for purposes of this section, is presumed to know of that duty.
- (5) Nonsupport is a Class A misdemeanor. For a second offense, the person shall receive a minimum sentence of seven (7) days in jail. For a third or any subsequent offense, the person shall receive a minimum sentence of thirty (30) days in jail.
- (6) Flagrant nonsupport is a Class D felony.

KRS 530.060 Endangering welfare of minor

- (1) A parent, guardian or other person legally charged with the care or custody of a minor is guilty of endangering the welfare of a minor when he fails or refuses to exercise reasonable diligence in the control of such child to prevent him from becoming a neglected, dependent or delinquent child.
- (2) Endangering the welfare of a minor is a Class A misdemeanor.

KRS 530.064 Unlawful transaction with a minor in the first degree

- (1) A person is guilty of unlawful transaction with a minor in the first degree when he or she knowingly induces, assists, or causes a minor to engage in:
 - (a) Illegal sexual activity; or
 - (b) Illegal controlled substances activity other than activity involving marijuana or salvia as defined in KRS 218A.010(36);
 Except those offenses involving minors in KRS Chapter 531 **[Pornography]** and in KRS 529.100 where that offense involves commercial sexual activity. **[Human trafficking]**.
- (2) Unlawful transaction with a minor in the first degree is a:
 - (a) Class C felony if the minor so used is less than eighteen (18) years old at the time the minor engages in the prohibited activity;
 - (b) Class B felony if the minor so used is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and
 - (c) Class A felony if the minor so used incurs physical injury thereby.

KRS 530.065 Unlawful transaction with a minor in the second degree

- (1) A person is guilty of unlawful transaction with a minor in the second degree when he knowingly induces, assists, or causes a minor to engage in illegal controlled substances activity involving marijuana, illegal gambling activity, or any other criminal activity constituting a felony.
- (2) Unlawful transaction with a minor in the second degree is a Class D felony.

KRS 530.070 Unlawful transaction with a minor in the third degree

- (1) A person is guilty of unlawful transaction with a minor in the third degree when:
 - (a) Acting other than as a retail licensee, he knowingly sells, gives, purchases or procures any alcoholic or malt beverage in any form to or for a minor. The defendant may prove in exculpation that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he was of legal age to purchase alcoholic beverages. This subsection does not apply to a parent or guardian of the minor; or
 - (b) He knowingly induces, assists, or causes a minor to engage in any other criminal activity; or
 - (c) He knowingly induces, assists or causes a minor to become a habitual truant; or
 - (d) He persistently and knowingly induces, assists or causes a minor to disobey his parent or guardian.
- (2) Unlawful transaction with a minor in the third degree is a Class A misdemeanor.

KRS 530.080 Endangering the welfare of incompetent person

- (1) A person is guilty of endangering the welfare of an incompetent person when he knowingly acts in a manner which results in an injury to the physical or mental welfare of a person who is unable to care for himself because of mental illness or intellectual disability.
- (2) Endangering the welfare of an incompetent person is a Class A misdemeanor.

**KRS CHAPTER 531
PORNOGRAPHY**

KRS 531.010 Definitions

As used in this chapter:

- (1) "**Distribute**" means to transfer possession of, whether with or without consideration.
- (2) "**Matter**" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines, or materials.
- (3) "**Obscene**" means:
 - (a) To the average person, applying contemporary community standards, the predominant appeal of the matter, taken as a whole, is to prurient interest in sexual conduct; and
 - (b) The matter depicts or describes the sexual conduct in a patently offensive way; and
 - (c) The matter, taken as a whole, lacks serious literary, artistic, political, or scientific value.

EDITOR'S NOTE: "What is obscene" requires a judicial decision.
- (4) "**Sexual conduct**" means acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviant sexual intercourse; or physical contact with the genitals, flagellation, or excretion for the purpose of sexual stimulation or gratification.

KRS 531.020 Distribution of obscene matter

- (1) A person is guilty of distribution of obscene matter when, having knowledge of its content and character, he:
 - (a) Sends or causes to be sent into this state for sale or distribution; or
 - (b) Brings or causes to be brought into this state for sale or distribution; or

- (c) In this state, he:
 - (i) Prepares, or
 - (ii) Publishes, or
 - (iii) Prints, or
 - (iv) Exhibits, or
 - (v) Distributes, or
 - (vi) Offers to distribute, or
 - (vii) Has in his possession with intent to distribute, exhibit or offer to distribute, any obscene matter.
- (2) Distribution of obscene matter is a Class B misdemeanor unless the defendant has in his possession more than one unit of material coming within the provisions of this chapter, in which case it shall be a Class A misdemeanor.

KRS 531.030 Distribution of obscene matter to minors

- (1) A person is guilty of distribution of obscene material to minors when, knowing a person to be a minor, or having possession of such facts that he should reasonably know that such person is a minor, and with knowledge of the content and character of the material, he knowingly:
 - (a) Sends or causes to be sent; or
 - (b) Exhibits; or
 - (c) Distributes, or offers to distribute, obscene material to a minor.
- (2) Distribution of obscene materials to minors is a Class A misdemeanor unless the defendant has previously been convicted of violation of this section or of KRS 531.020, in which case it shall be a Class D felony.

KRS 531.040 Using minors to distribute obscene material

- (1) A person is guilty of using minors to distribute obscene material when knowing a person to be a minor, or having possession of such facts that he should reasonably know such person is a minor, and knowing of the content and character of the material, he knowingly:
 - (a) Hires; or
 - (b) Employs; or
 - (c) Uses;
 a minor to do or assist in doing any of the acts prohibited by KRS 531.020.
- (2) Using minors to distribute obscene material is a Class A misdemeanor unless the defendant has previously been convicted of violation of this section or KRS 531.030, in which case it shall be a Class D felony.

KRS 531.050 Advertising obscene material

- (1) A person is guilty of advertising obscene material when, having knowledge of its content and character thereof, he writes or creates advertising or solicits anyone to publish such advertising or otherwise promotes the sale or distribution of obscene matter.
- (2) Advertising obscene material is a Class B misdemeanor.

KRS 531.060 Promoting sale of obscenity

- (1) A person is guilty of promoting sale of obscenity when he knowingly, as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, publication or other merchandise, requires that the purchaser or consignee receive any matter reasonably believed by the purchaser or consignee to be obscene, or he denies or threatens to deny a franchise, revokes or threatens to revoke, or imposes any penalty, financial or otherwise, by reason of the failure of any person to accept such matter, or by reason of the return of such matter.
- (2) Promoting sale of obscenity is a Class B misdemeanor for the first offense; a Class A misdemeanor for the second offense; and a Class D felony for each subsequent offense.

KRS 531.070 Exemptions

The prohibitions and penalties imposed in this chapter shall not extend to persons having a bona fide scientific, educational, governmental, or other similar justification for conduct which would, except for such justification, be criminal under this chapter.

KRS 531.090 Voyeurism

- (1) A person is guilty of voyeurism when:
 - (a) He or she intentionally:
 1. Uses or causes the use of any camera, videotape, photooptical, photoelectric, or other image recording device for the purpose of observing, viewing, photographing, filming, or videotaping the sexual conduct, genitals, an undergarment worn without being publicly visible, or nipple of the female breast of another person without that person's consent; or
 2. Uses the unaided eye or any device designed to improve visual acuity for the purpose of observing or viewing the sexual conduct, genitals, an undergarment worn without being publicly visible, or nipple of the female breast of another person without that person's consent; or
 3. Enters or remains unlawfully in or upon the premises of another for the purpose of observing or viewing the sexual conduct, genitals, an undergarment worn without being publicly visible, or nipple of the female breast of another person without the person's consent; and
 - (b) The other person is in a place where a reasonable person would believe that his or her sexual conduct, genitals, undergarments, or nipple of the female breast will not be observed, viewed, photographed, filmed, or videotaped without his or her knowledge.
- (2) The provisions of subsection (1) of this section shall not apply to:
 - (a) A law enforcement officer during a lawful criminal investigation; or
 - (b) An employee of the Department of Corrections, the Department of Juvenile Justice, a private prison, a local jail, or a local correctional facility whose actions have been authorized for security or investigative purposes.
- (3) Unless objected to by the victim or victims of voyeurism, the court on its own motion or on motion of the Commonwealth's attorney shall:
 - (a) Order the sealing of all photographs, film, videotapes, or other images that are introduced into evidence during a prosecution under this section or are in the possession of law enforcement, the prosecution, or the court as the result of a prosecution under this section; and
 - (b) At the conclusion of a prosecution under this section, unless required for additional prosecutions, order the destruction of all of the photographs, film, videotapes, or other images that are in possession of law enforcement, the prosecution, or the court.
- (4) Voyeurism is a Class A misdemeanor.

KRS 531.100 Video voyeurism

- (1) A person is guilty of video voyeurism when he or she intentionally:
 - (a) Uses or causes the use of any camera, videotape, photooptical, photoelectric, or other image recording device for the purpose of observing, viewing, photographing, filming, or videotaping the sexual conduct, genitals, or nipple of the female breast of another person without that person's consent; and
 - (b) Uses or divulges any image so obtained for consideration; or
 - (c) Distributes any image so obtained by live or recorded visual medium, electronic mail, the Internet, or a commercial on-line service.
- (2) Video voyeurism is a Class D felony.

KRS 531.105 Application of KRS 531.100

The provisions of KRS 532.100 shall not apply to the transference of prohibited images by a telephone company, a cable television company or any of its affiliates, an Internet provider, or a commercial on-line service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial on-line services.

KRS 531.110 Sealing and destruction of images in cases of video voyeurism

Unless objected to by the victim or victims of the video voyeurism, the court, on its own motion, or on motion of the attorney for the Commonwealth shall:

- (1) Order all photographs, film, videotapes, or other images that are introduced into evidence or are in the possession of law enforcement, the prosecution, or the court to be sealed; and
- (2) At the conclusion of the case, unless required for additional prosecutions, order all of the photographs, film, videotapes, or other images that are in the possession of law enforcement, the prosecution, or the court to be destroyed.

SEXUAL EXPLOITATION OF MINORS**KRS 531.300 Definitions for KRS 531.080 and 531.310 to 531.370**

As used in KRS 531.080 and 531.310 to 531.370:

- (1) "**Distribute**" means to transfer possession of, whether with or without consideration;
- (2) "**Matter**" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines, or materials;
- (3) "**Obscene**" means the predominate appeal of the matter taken as a whole is to a prurient interest in sexual conduct involving minors;
- (4) "**Sexual conduct by a minor**" means:
 - (a) Acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviant sexual intercourse, actual or simulated;
 - (b) Physical contact with, or willful or intentional exhibition of the genitals;
 - (c) Flagellation or excretion for the purpose of sexual stimulation or gratification; or
 - (d) The exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area or buttocks, or the female breast, whether or not subsequently obscured by a mark placed thereon, or otherwise altered, in any resulting motion picture, photograph or other visual representation, exclusive of exposure portrayed in matter of a private, family nature not intended for distribution outside the family;
- (5) "**Performance**" means any play, motion picture, photograph or dance. Performance also means any other visual representation exhibited before an audience;
- (6) "**Sexual performance**" means any performance or part thereof which includes sexual conduct by a minor; and
- (7) "**Promote**" means to prepare, publish, print, procure or manufacture, or to offer or agree to do the same.

KRS 531.310 Use of a minor in a sexual performance

- (1) A person is guilty of the use of a minor in a sexual performance if he employs, consents to, authorizes or induces a minor to engage in a sexual performance.
- (2) Use of a minor in a sexual performance is:
 - (a) A Class C felony if the minor so used is less than eighteen (18) years old at the time the minor engages in the prohibited activity;
 - (b) A Class B felony if the minor so used is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and
 - (c) A Class A felony if the minor so used incurs physical injury thereby.

KRS 531.320 Promoting a sexual performance by a minor

- (1) A person is guilty of promoting a sexual performance by a minor when, knowing the character and content thereof, he produces, directs or promotes any performance which includes sexual conduct by a minor.
- (2) Promoting a sexual performance by a minor is:
 - (a) A Class C felony if the minor involved in the sexual performance is less than eighteen (18) years old at the time the minor engages in the prohibited activity;
 - (b) A Class B felony if the minor involved in the sexual performance is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and
 - (c) A Class A felony if the minor involved in the sexual performance incurs physical injury thereby.

KRS 531.330 Presumptions as to minority

- (1) For purposes of KRS 529.040 where the offense involves commercial sexual activity and for the purposes of KRS 530.070, 531.080 and 531.300 to 531.370, any person who appears to be under the age of 18, or under the age of 16, shall be presumed to be under the age of 18, or under the age of 16, as the case may be.
- (2) In any prosecution under KRS 529.040 where the offense involves commercial sexual activity by a minor and in any prosecution under KRS 530.070, 531.080 and 531.300 to 531.370, the defendant may prove in exculpation that he in good faith reasonably believed that the person involved in the performance was not a minor.
- (3) The presumption raised in subsection (1) of this section may be rebutted by competent evidence.

KRS 531.335 Possession of matter portraying a sexual performance by a minor

- (1) A person is guilty of possession or viewing of matter portraying a sexual performance by a minor when, having knowledge of its content, character, and that the sexual performance is by a minor, he or she:
 - (a) Knowingly has in his or her possession or control any matter which visually depicts an actual sexual performance by a minor person; or
 - (b) Intentionally views any matter which visually depicts an actual sexual performance by a minor person.
- (2) The provisions of subsection (1)(b) of this section:
 - (a) Shall only apply to the deliberate, purposeful, and voluntary viewing of matter depicting sexual conduct by a minor person and not to the accidental or inadvertent viewing of such matter; and
 - (b) Shall not apply to persons viewing the matter in the course of a law enforcement investigation or criminal or civil litigation involving the matter.
- (3) Possession or viewing of matter portraying a sexual performance by a minor is a Class D felony.

KRS 531.340 Distribution of matter portraying a sexual performance by a minor

- (1) A person is guilty of distribution of matter portraying a sexual performance by a minor when, having knowledge of its content and character, he or she:
 - (a) Sends or causes to be sent into this state for sale or distribution; or
 - (b) Brings or causes to be brought into this state for sale or distribution; or
 - (c) In this state, he or she:
 1. Exhibits for profit or gain; or
 2. Distributes; or
 3. Offers to distribute; or
 4. Has in his or her possession with intent to distribute, exhibit for profit or gain or offer to distribute, any matter portraying a sexual performance by a minor.
- (2) Any person who has in his or her possession more than one (1) unit of material coming within the provision of KRS 531.300(2) shall be rebuttably presumed to have such material in his or her possession with the intent to distribute it.
- (3) Distribution of matter portraying a sexual performance by a minor is a Class D felony for the first

offense and a Class C felony for each subsequent offense.

KRS 531.350 Promoting sale of material portraying a sexual performance by a minor

- (1) A person is guilty of promoting sale of material portraying a sexual performance by a minor when he knowingly, as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, publication or other merchandise, requires that the purchaser or consignee receive any matter portraying a sexual performance by a minor, or he denies or threatens to deny a franchise, revokes or threatens to revoke, or imposes any penalty, financial or otherwise, by reason of the failure of any person to accept such matter, or by reason of the return of such matter.
- (2) Promoting sale of matter portraying a sexual performance by a minor is a Class A misdemeanor for the first offense, a Class D felony for the second offense, and a Class C felony for each subsequent offense.

KRS 531.360 Advertising material portraying a sexual performance by a minor

- (1) A person is guilty of advertising material portraying a sexual performance by a minor when, having knowledge of its content and character thereof, he or she writes or creates advertising or solicits anyone to publish such advertising or otherwise promotes the sale or distribution of matter portraying a sexual performance by a minor.
- (2) Advertising material portraying a sexual performance by a minor is a Class D felony for the first offense and a Class C felony for each subsequent offense.

KRS 531.370 Using minors to distribute material portraying a sexual performance by a minor

- (1) A person is guilty of using minors to distribute material portraying a sexual performance by a minor when knowing a person to be a minor, or having possession of such facts that he should reasonably know such person is a minor, and knowing of the content and character of the material, he knowingly:
 - (a) Hires; or
 - (b) Employs; or
 - (c) Uses,a minor to do or assist in doing any of the acts prohibited by KRS 531.340.
- (2) Using minors to distribute material portraying a sexual performance by a minor is a Class D felony unless the defendant has previously been convicted of violation of this section or KRS 531.030, in which case it shall be a Class C felony.