

2020 KCLM UPDATE INSERT

(Changes to existing statutes bold, underlined & italics)

Section 3.1

KRS 17.500 Definitions for KRS 17.500 to 17.580

As used in KRS 17.500 to 17.580:

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(8) "Sex crime" means:

(a) A felony offense defined in KRS Chapter 510,[or] KRS **529.100 or 529.110 involving commercial sexual activity**, 530.020, 530.064(1)(a), 531.310, 531.320, or 531.335;

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KRS 17.545 Registrant prohibited from residing near school or day care facility – Penalties – Exception

- (1) No registrant, as defined in KRS 17.500, shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned **or leased** playground, or licensed day care facility. The measurement shall be taken in a straight line from the nearest property line of the school to the nearest property line-of the registrant's place of residence.
- (2) No registrant, as defined in KRS 17.500, nor any person residing outside of Kentucky who would be required to register under KRS 17.510 if the person resided in Kentucky, shall be on the clearly defined grounds of a high school, middle school, elementary school, preschool, publicly owned **or leased** playground, or licensed day care facility, except with the advance written permission of the school principal, the school board, the local legislative body with jurisdiction over the publicly owned **or leased** playground, or the day care director that has been given after full disclosure of the person's status as a registrant or sex offender from another state and all registrant information as required in KRS 17.500. As used in this subsection, "local legislative body" means the chief governing body of a city, county, urban-county government, consolidated local government, charter county government, or unified local government that has legislative powers.

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(7) The prohibition against a registrant:

(a) Residing within one thousand (1,000) feet of a publicly leased playground as outlined in subsection (1) of this section; or

(b) Being on the grounds of a publicly leased playground as outlined in subsection (2) of this section:

Shall not operate retroactively.

- (8) This section shall not apply to a youthful offender probated or paroled during his or her minority or while enrolled in an elementary or secondary education program.

Section 4.0

KRS 600.020 Definitions for KRS Chapters 600 to 645

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- (1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when:

(a) His or her parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person exercising custodial control or supervision of the child:

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10. Commits or allows female genital mutilation as defined KRS 508.125 to be committed; or

(65)(a)“**Status offense action**” is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall include:

1. Beyond the control of school or beyond the control of parents;
2. Habitual runaway;
3. Habitual truant; **and**
4. Alcohol offenses as provided in KRS 244.085.

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KRS 610.010 District Court jurisdiction of juvenile matters

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(2) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county or the family division of the Circuit Court shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his or her eighteenth birthday and who allegedly:

- (a) Is ***beyond the control of the school*** or ***beyond the control of parents*** as defined in KRS 600.020;
- (b) Is an ***habitual truant*** from school;
- (c) Is an ***habitual runaway*** from his or her ***parent*** or other ***person exercising custodial control or supervision*** of the child;
- (d) Is ***dependent, neglected, or abused***; or
- (e) Has committed an alcohol offense in violation of KRS 244.085;
- (f) Has committed a tobacco offense as provided in KRS 438.305 to 438.340; or
- (g) Is mentally ill.

(3) Actions brought under subsection (1) of this section shall be considered to be public offense actions.

(4) Actions brought under subsection (2)(a), (b), (c), (e) and (f) of this section shall be considered to be status offense actions.

(5) Actions brought under subsection (2)(d) of this section shall be considered to be nonoffender actions.

(6) Actions brought under subsection (2)(g) of this section shall be considered to be mental health actions.

KRS 620.030 Duty to report dependency, neglect or abuse – Husband-wife and professional-client/patient privileges not grounds for refusal to report – Exceptions - Penalties

Penalty: KRS 620.990(1)

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(4) Any person who knows or has reasonable cause to believe that a child is a victim of female genital mutilation as defined in KRS 508.125

shall immediately cause an oral or written report to be made by telephone or otherwise to:

(a) A local law enforcement agency or the Department of Kentucky State Police;

(b) The cabinet or its designated representative; or

(c) The Commonwealth’s Attorney or the county attorney.

This subsection shall apply regardless of whether the person believed to have caused the female genital mutilation of the child is a parent, guardian, or person exercising custodial control or supervision.

(RENUMBER SUBSECTIONS 4 – 7 AS 5 – 8.)

KRS 630.020 Jurisdiction of court

The court shall have exclusive jurisdiction in proceedings concerning any child living, or found within the district, who allegedly:

- (1) Has been an habitual runaway from his parent or person exercising custodial control or supervision of the child;
- (2) Is beyond the control of the school or beyond the control of parents as defined in KRS 600.020;
- (3) Has been an habitual truant from school; or
- (4) Has committed an alcohol offense under KRS 244.085.

Section 5.1

KRS 186.560 Mandatory revocation or denial of license – Causes – Period of revocation or denial – Prohibition against reductions of certain revocations or denials – Limited exception relating to enrollment in alcohol or substance abuse education or treatment programs

- (1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his or her:
 - (a) conviction of any of the following offenses:

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11. Conviction of fleeing or evading police in the second degree when the offense involved the operation of a motor vehicle; or

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KRS 189.286 Local government may permit operation of golf cart on public roadway -- Ordinance – Qualifications for operation – Exemption from title, registration, and emissions compliance requirements – Preemption by Transportation Cabinet

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- (4) A person may operate a golf cart on a public roadway pursuant to subsection (2) of this section if:
 - (a) The posted speed limit of the designated public roadway is thirty-five miles per hour or less;
 - (b) The operator of the golf cart does not cross a roadway at an intersection where the roadway being crossed has a posted speed limit of more than thirty-five (35) miles per hour;
 - (c) The operator has a valid operator's license in his or her possession; **and**
 - (d) The golf cart displays a slow-moving vehicle emblem in compliance with KRS 189.820.
- (5) A golf cart operating on a public roadway under subsection (2) of this section shall be insured in compliance with KRS 304.39-080 by the owner or operator, and the proof of insurance shall be inside the golf cart at all times of operation on a public roadway.
- (6) Any person operating a golf cart on a public roadway under the provisions of this section shall be subject to the traffic regulation of KRS Chapter 189.
- (7) A golf cart operating on a public roadway designated by a local government under subsection (2) of this section is not considered to be a motor vehicle and is exempt from:
 - (a) Title requirements of KRS 186.020;

- (b) Vehicle registration requirements of KRS 186.050; and
- (c) Emissions compliance certificates pursuant to KRS 224-20.720.
- (8) A local government may adopt more stringent local ordinances governing golf cart safety equipment and operation than specified in this section.
- (9) The Transportation Cabinet may prohibit the operation of a golf cart on a public roadway designated under subsection (2) of this section that crosses a state-maintained highway under its jurisdiction if it determines that such prohibition is necessary in the interest of public safety.
- (10) The provisions of this section shall not apply to a golf cart that is not used on a public roadway except to cross a roadway while following a golf cart path on a golf course.

Section 7.2

KRS 438.305 Definitions for KRS 438.305 to 438.340

As used in KRS 438.305 to 438.340, unless the context requires otherwise:

- (1) (a) "**Alternative nicotine product**" means a noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means.
- (b) "**Alternative nicotine product**" does not include any tobacco product, vapor product, or any other product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act;

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- (4) "**Proof of age**" means a driver's license or other documentary or written evidence of an individual's age;

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- (6) "**Sample**" means a tobacco product, alternative nicotine product, or vapor product distributed to members of the general public at no cost;

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- (8) (a) "**Tobacco product**" means any cigarette, cigar, snuff, smokeless tobacco product, smoking tobacco, chewing tobacco, and any kind or form of tobacco prepared in a manner suitable for chewing or smoking, or both, or any kind or form of tobacco that is suitable to be placed in a person's mouth. "Tobacco product" also means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product, except for raw materials other than tobacco used in manufacturing any component, part, or accessory of a tobacco product, in accordance with the federal Tobacco Control Act, Pub. L. No. 111-31.

- (b) "Tobacco product" does not include any alternative nicotine product, vapor product, or product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

- (9) (a) "**Vapor product**" means any noncombustible product containing nicotine that employs a heating element, battery, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size and including the component parts and accessories thereto, that can be used to deliver vaporized nicotine or other substances to users inhaling from the device. "Vapor product" includes but is not limited to any device deemed to be an electronic nicotine delivery system by the United States Food and Drug Administration, any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and every variation thereof, regardless of

whether marketed as such, and any vapor cartridge or other container of a liquid solution or other material that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar product or device.

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KRS 438.310 Sale of tobacco products to persons under age 18 prohibited – Penalty

- (1) No person shall sell or cause to be sold any tobacco product, alternative nicotine product, or vapor product at retail to any person under the age of **twenty-one (21)**, or solicit any person under the age of **twenty-one (21)** to purchase any tobacco product, alternative nicotine product, or vapor product at retail.
- (2) Any person who sells tobacco products, alternative nicotine product, or vapor products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products, alternative nicotine product, or vapor products to persons under age **twenty-one (21)**.
- (3) Any person selling tobacco products, alternative nicotine product, or vapor products shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective buyer or recipient is under the age of **twenty-one (21)**.

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KRS 438.311 Unlawful acts by minors relating to purchase or receipt of tobacco – Penalty – Issuance of uniform citation

- (1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has not attained the age of **twenty-one (21)** years to purchase or accept receipt of or to attempt to purchase or accept receipt of a tobacco product, alternative nicotine product, or vapor product or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product, alternative nicotine product, or vapor product. It shall not be unlawful for such a person to accept receipt of a tobacco product, alternative nicotine product, or vapor product from a family member, except if the child has been committed to the custody of the state under KRS Chapters 600 to 645, or from an employer when required in the performance of the person's duties.
- (2) All peace officers with general law enforcement authority and employees of the Department of Alcoholic Beverage Control may *confiscate the tobacco product, alternative nicotine product, or vapor product of a person under the age of twenty-one (21) who has violated this section. Notwithstanding any provision of law to the contrary, no other penalty shall apply to a person under the age of twenty-one (21) for a violation of this section.***

KRS 438.313 Distribution of tobacco products to persons under age 18 prohibited – Penalty – Issuance of uniform citation

- (1) No wholesaler, retailer, or manufacturer of cigarettes, tobacco products, alternative nicotine products, or vapor products may distribute cigarettes, tobacco products, alternative nicotine products, or vapor products, including samples thereof, free of charge or otherwise, to any person under the age of **twenty-one (21)**.
- (2) Any person who distributes cigarettes, tobacco products, alternative nicotine products, or vapor products, including samples thereof, free of charge or otherwise shall require proof of

age from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of **twenty-one (21)**.

- (3) Any person who violates the provisions of this section shall be fined not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500) for each offense. The fine shall be administered by the Department of Alcoholic Beverage Control using a civil enforcement procedure for persons eighteen (18) years of age or older.
- (4) All peace officers with general law enforcement authority and employees of the Department of Alcoholic Beverage Control may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section.

KRS 438.350 Prohibition against possession or use of tobacco products by minors – Exceptions

- (1) No person under the age of **twenty-one (21)** shall possess or use tobacco products, alternative nicotine products, or vapor products.
- (2) Any tobacco product, alternative nicotine products, or vapor products found in the possession of a person under the age of **twenty-one (21)** and in plain view of the law enforcement officer shall be confiscated by the law enforcement officer making the charge.

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Section 8.2

KRS 508.078 Terroristic threatening in the second degree

- (1) A person is guilty of terroristic threatening in the second degree when, other than as provided in KRS 508.075 he or she intentionally:
 - (a) With respect to any scheduled, publicly advertised event open to the public, any place of worship, or any school function, threatens to commit any act likely to result in death or serious physical injury to any person at a scheduled, publicly advertised event open to the public, any person at a place of worship, or any student group, teacher, volunteer worker, or employee of a public or private elementary or secondary school, vocational school, or institution of postsecondary education, or to any other person reasonably expected to lawfully be on school property or at a school-sanctioned activity, if the threat is related to their employment by a school, or work or attendance at school, or a school function. A threat directed at a person or persons at a scheduled publicly advertised event open to the public, place of worship, or school does not need to identify a specific person or persons or school in order for a violation of this section to occur;
 - (b) Makes false statements by any means, including by electronic communication, **indicating that an act likely to result in death or serious physical injury is occurring or will occur** for the purpose of:
 1. Causing evacuation of a school building, school property, or school sanctioned activity;
 2. Causing cancellation of school classes or school sanctioned activity; or
 3. Creating fear of death or serious physical injury among students, parents, or school personnel;
 - (c) Makes false statements that he or she has placed a weapon of mass destruction at any location other than one specified in KRS 508.075; or
 - (d) Without lawful authority places a counterfeit weapon of mass destruction at any location other than one specified in KRS.508.075.
- (2) A counterfeit weapon of mass destruction is placed with lawful authority if it is placed as part of an official training exercise by a public servant, as defined in KRS 522.010.

- (3) A person is not guilty of commission of an offense under this section if he or she, innocently and believing the information to be true, communicates a threat made by another person to school personnel, a peace officer, a law enforcement agency, a public agency involved in emergency response, or a public safety answering point and identifies the person from whom the threat was communicated, if known.
- (4) Except as provided in subsection (5) of this section, terroristic threatening in the second degree is a Class D felony.
- (5) Terroristic threatening in the second degree is a Class C felony when, in addition to violating subsection (1) of this section, the person intentionally engages in substantial conduct required to prepare for or carry out the threatened act, including but not limited to gathering weapons, ammunition, body armor, vehicles, or materials required to manufacture a weapon of mass destruction.

KRS 508.125 Female genital mutilation (NEW LAW)

- (1) As used in this section, “female genital mutilation” means a procedure that involves the partial or total removal of the external female genitalia or any procedure harmful to the female genitalia, including but not limited to:
 - (a) A clitoridectomy;
 - (b) The partial or total removal of the clitoris and the labia minora, with or without excisions of the labia majora;
 - (c) The excision or the partial or total removal of the clitoris and the labia minora, with or without excisions of the labia majora;
 - (d) The infibulation of the narrowing of the vaginal orifice with the creation of a covering seal by cutting and appositioning of the labia minora or the labia majora, with or without the excision of the clitoris;
 - (e) Pricking, piercing, incising, scraping, or cauterizing the genital area; or
 - (f) Any other action to purposely alter the structure or function of the female genitalia for a nonmedical reason.
- (2) A person is guilty of female genital mutilation when:
 - (a) The person knowingly performs female genital mutilation on another person under eighteen (18) years of age;
 - (b) The person is a parent, guardian, or has immediate custody or control of a person under eighteen (18) years of age and knowingly consents to or permits female genital mutilation of such person; or
 - (c) The person knowingly removes or causes or permits the removal of a person under eighteen (18) from Kentucky for the purposes of performance of female genital mutilation of the person.
- (3) It is not a defense to female genital mutilation that the conduct under subsection (2) of this section is:
 - (a) Required as a matter of religion, custom, ritual, or standard practice; or
 - (b) Consented to by the individual on whom it is performed or the individual's parent or guardian.
- (4) A surgical procedure is not a violation of subsection (1) of this section if the procedure is:
 - (a) Necessary to the health of the person on whom it is performed and is performed by a person licensed in the place of its performance as a health care provider; or

- (b) Performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place of its performance as a health care provider.
- (5) Female genital mutilation is a Class B felony.

Section 8.3

KRS 511.100 Trespass upon key infrastructure assets

- (1) As used in this section:
- (a) "Key infrastructure assets" means:
1. Any critical node of a system used in the production or generation of electrical energy;
 2. A petroleum refinery;
 3. A rubber or hazardous chemical manufacturing facility;
 4. A petroleum or hazardous chemical storage facility or terminal;
 5. Natural gas processing, fractionation, stabilization, and compressor station facilities, as well as above-ground **natural gas or petroleum** pipelines and related facilities;
 6. Railroad yards and railroad tunnel portals;
 7. A drinking water collection, treatment, or storage facility;
 8. Grounds or property of a state prison, juvenile justice facility, jail, or other facility for the detention of persons charged with or convicted of crimes;
 9. A facility used for research, development, design, production, delivery, or maintenance of military weapons systems, subsystems, and components or parts to meet military requirements of the United States; or
 10. A wireless communications facility, including the tower, antennae, support structures and all associated ground-based equipment, and a telecommunications central switching office; or **11.A cable television headend; and**

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KRS 512.020 Criminal mischief in the first degree

- (1) A person is guilty of criminal mischief in the first degree when having no right to do so or any reasonable ground to believe that he **or she** has such right, he or she intentionally or wantonly:
- (a) Defaces destroys or damages any property causing pecuniary loss of \$1,000 or more; **or**
- (b) Tamper with the operations of a key infrastructure asset, as defined in KRS 511.100, in a manner that renders the operations harmful or dangerous.**
- (2) Criminal mischief in the first degree is a Class D felony.

Section 8.7

KRS 529.010 Definitions

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

- (1) **"Abuse or threatened abuse of law or legal process" means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action;**
- (2) **"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.

- (3) **“Commercial sexual activity”** means;
- (a) Any sex act, for which anything of value is given to, promised to, or received by any person;
 - (b) Participation in the production of obscene material as set out in KRS Chapter 531; or
 - (c) Engaging in a sexually explicit performance;
- (4) **“Debt bondage”** means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for the debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined;
- (5) **“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;
- (6) **“Force, fraud, or coercion”** includes but is not limited to:
- (a) The use of threat of force, against, abduction of, restraint, or serious harm of an individual;
 - (b) The abuse or threatened abuse of law or legal process;
 - (c) Facilitating, controlling, or threatening to control an individual’s access to a controlled substance;
 - (d) Knowingly destroying, concealing, removing, confiscating, or possessing, or attempting to destroy, conceal, remove, confiscate, or possess any actual or purported passport or other immigration documents or any other actual or purported governmental identification documents of the person or family member;
 - (e) Use of debt bondage; or
 - (f) The use of an individual’s physical or mental impairment when the impairment has a substantial adverse effect on the individual’s cognitive or volitional function;
- (7) **“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;
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- (9) **“Labor”** means work of economic or financial value;
- (10) **“Minor”** means a person under the age of eighteen (18) years;
- (11) **“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.
- (12) **“Serious harm”** means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious to compel a reasonable person to perform or to continue performing commercial sexual activity in order to avoid incurring that harm;
- (13) **“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;
- (14) **“Sexual conduct”** means sexual intercourse or any act of sexual gratification involving the sex organs;
- (15) **“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
- (16) **“Victim of human trafficking”** is a person who has been subjected to human trafficking.

KRS 529.100 Human trafficking

(1) A person is guilty of human trafficking when the person intentionally subjects one (1) or more persons to **engage in:**

(a) Forced labor or services; or

(b) Commercial sexual activity through the use of force, fraud, or coercion, except that if the person is under the age of eighteen (18), the commercial sexual activity need not involve force, fraud, or coercion.

(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 529.180 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, it shall not be a defense that:

(1) The defendant was unaware of the minor's actual age;

(2) A minor consented to engage in commercial sexual activity;

(3) The intended victim of the offense is a law enforcement officer posing as a minor as a part of a criminal investigation or operation;

(4) The solicitation was unsuccessful, the conduct was not engaged in, or the law enforcement officer could not engage in the solicited offense; or

(5) The victim is charged with an offense.