

**510.020 Lack of consent.**

- (1) Whether or not specifically stated, it is an element of every offense defined in this chapter that the sexual act was committed without consent of the victim.
- (2) Lack of consent results from:
  - (a) Forcible compulsion;
  - (b) Incapacity to consent; or
  - (c) If the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.
- (3) A person is deemed incapable of consent when he or she is:
  - (a) Less than sixteen (16) years old;
  - (b) Mentally retarded or suffers from a mental illness;
  - (c) Mentally incapacitated;
  - (d) Physically helpless; or
  - (e) Under the care or custody of a state or local agency pursuant to court order and the actor is employed by or working on behalf of the state or local agency.
- (4) The provisions of subsection (3)(e) of this section shall not apply to persons who are lawfully married to each other and no court order is in effect prohibiting contact between the parties.

**Effective:** July 12, 2006

**History:** Amended 2006 Ky. Acts ch. 182, sec. 30, effective July 12, 2006. -- Amended 1988 Ky. Acts ch. 283, sec. 10, effective July 15, 1988. -- Created 1974 Ky. Acts ch. 406, sec. 82, effective January 1, 1975.