

510.120 Sexual abuse in the second degree.

- (1) A person is guilty of sexual abuse in the second degree when:
 - (a) He or she subjects another person to sexual contact who is incapable of consent because he or she is mentally retarded;
 - (b) He or she is at least eighteen (18) years old but less than twenty-one (21) years old and subjects another person who is less than sixteen (16) years old to sexual contact; or
 - (c) Being an employee, contractor, vendor, or volunteer of the Department of Corrections, or a detention facility as defined in KRS 520.010, or of an entity under contract with either the department or a detention facility for the custody, supervision, evaluation, or treatment of offenders, he or she subjects an offender who is incarcerated, supervised, evaluated, or treated by the Department of Corrections, the detention facility, or the contracting entity, to sexual contact. In any prosecution under this paragraph, the defendant may prove in exculpation that, at the time he or she engaged in the conduct constituting the offense, he or she and the offender were married to each other.
- (2) In any prosecution under subsection (1)(b) of this section, it is a defense that:
 - (a) The other person's lack of consent was due solely to incapacity to consent by reason of being less than sixteen (16) years old; and
 - (b) The other person was at least fourteen (14) years old; and
 - (c) The actor was less than five (5) years older than the other person.
- (3) Sexual abuse in the second degree is a Class A misdemeanor.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 72, sec. 2, effective July 15, 2008. -- Amended 2006 Ky. Acts ch. 182, sec. 34, effective July 12, 2006. -- Amended 2002 Ky. Acts ch. 259, sec. 9, effective July 15, 2002; and ch. 282, sec. 3, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 345, sec. 8, effective July 14, 2000. -- Amended 1988 Ky. Acts ch. 283, sec. 14, effective July 15, 1988. --Created 1974 Ky. Acts ch. 406, sec. 92, effective January 1, 1975.

Legislative Research Commission Note (7/15/2008). The numbering of subsections in this section has been altered by the Reviser of Statutes from the numbering in 2008 Ky. Acts ch. 72, sec. 2, under the authority of KRS 7.136.