

**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) Sixteen (16) or seventeen (17) years old and the actor is at least ten (10) years older than the victim at the time of the sexual act;
  - (c) An individual unable to communicate consent or lack of consent, or unable to understand the nature of the act or its consequences, due to an intellectual disability or a mental illness;
  - (d) Mentally incapacitated;
  - (e) Physically helpless; or
  - (f) 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)(f) 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 14, 2018

**History:** Amended 2018 Ky. Acts ch. 43, sec. 1, effective July 14, 2018; and ch. 109, sec. 7, effective July 14, 2018. -- Amended 2012 Ky. Acts ch. 146, sec. 124, effective July 12, 2012. -- 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.

**Legislative Research Commission Note (7/14/2018).** This statute was amended by 2018 Ky. Acts chs. 43 and 109, which do not appear to be in conflict and have been codified together.

**Legislative Research Commission Note (7/14/2018).** 2018 Ky. Acts ch. 43, sec. 5, provides that 2018 Ky. Acts ch. 43 may be cited as "Jenna's Law." This statute was amended in Section 1 of that Act.