



KENTUCKY

Legal System	Constitution	Bill of Rights	Form of Government
Common Law Statutory Law	Written	Yes	Republic

A. Criminal Statutes

1. Human Trafficking and Related Offenses

a. Ky. Rev. Stat. Ann. § 529.100 (2020) – Human Trafficking

i. Summary

A person commits the crime 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), then the commercial sexual activity does not need to involve force, fraud, or coercion.

Ky. Rev. Stat. Ann. § 529.100(1).

“Abuse or threatened abuse of law or legal process” is defined as:

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.

Ky. Rev. Stat. Ann. § 529.010(1).

“Commercial sexual activity” is defined as:

- (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 [Ky. Rev. Stat. Ann.] Chapter 531; or
- (c) Engaging in a sexually explicit performance.

Ky. Rev. Stat. Ann. § 529.010(3).

“Forced labor or services” is defined as “labor or services that are performed or provided by another person and that are obtained through force, fraud, or coercion.” Ky. Rev. Stat. Ann. § 529.010(5).

“Force, fraud, or coercion” is defined to include, but is not limited to:

- (a) The use or threat of force against, abduction of, restraint, or serious harm of an individual;

- (b) The abuse or threatened abuse of the 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 government identification documents of the person or of their 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.

Ky. Rev. Stat. Ann. § 529.010(6).

“Minor” is defined as “a person under the age of eighteen (18) years.” Ky. Rev. Stat. Ann. § 529.010(10).

“Serious harm” is defined as “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.” Ky. Rev. Stat. Ann. § 529.010(12).

If the prosecution for human trafficking involves commercial sexual activity, it is not a defense that:

- (a) The defendant was unaware of the minor’s actual age;
- (b) The minor consented to engage in commercial sexual activity;
- (c) The intended victim of the offense is a law enforcement officer posing as a minor as part of a criminal investigation or operation;
- (d) The solicitation was unsuccessful, the conduct was not engaged in, or the law enforcement officer could not engage in the solicited offense; or
- (e) The victim is charged with an offense.

Ky. Rev. Stat. Ann. § 529.180.

ii. Sentencing

“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.” Ky. Rev. Stat. Ann. § 529.100(2)(a). “If the victim is under eighteen (18) years of age, the penalty for the offense is one (1) level higher” Ky. Rev. Stat. Ann. § 529.100(2)(b).

A Class D felony is punishable by imprisonment for one to five years. A Class C felony is punishable by imprisonment for five to 10 years. A Class B felony is punishable by imprisonment for 10 to 20 years. A Class A felony is punishable by imprisonment for 20 to 50 years, or life. Ky. Rev. Stat. Ann. § 532.060(2).

“Any person convicted of [human trafficking] shall be ordered to pay, in addition to any other fines, penalties, or applicable forfeitures, a human trafficking victims service fee of not less than ten thousand dollars ([USD] 10,000) to be remitted to the [human trafficking victims fund]” Ky. Rev. Stat. Ann. § 529.130.

iii. Statute of Limitations

The prosecution of this felony has no period of limitation and may be commenced at any time. Ky. Rev. Stat. Ann. § 500.050 (1).

b. Ky. Rev. Stat. Ann. § 529.110 (2007) – Promoting Human Trafficking

i. Summary

A person commits the crime 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, provide, or obtain by any means, another person, knowing that the person will be subject to human trafficking.

Ky. Rev. Stat. Ann. § 529.110(1).

If the prosecution for promoting human trafficking involves commercial sexual activity, it is not a defense that:

- (a) The defendant was unaware of the minor’s actual age;
- (b) The minor consented to engage in commercial sexual activity;
- (c) The intended victim of the offense is a law enforcement officer posing as a minor as part of a criminal investigation or operation;
- (d) The solicitation was unsuccessful, the conduct was not engaged in, or the law enforcement officer could not engage in the solicited offense; or
- (e) The victim is charged with an offense.

Ky. Rev. Stat. Ann. § 529.180.

ii. Sentencing

“Promoting human trafficking is a Class D felony unless a trafficking victim is under eighteen (18), in which case it is a Class C felony.” Ky. Rev. Stat. Ann. § 529.110(2).

A Class D felony is punishable by imprisonment for one to five years. A Class C felony is punishable by imprisonment for five to 10 years. Ky. Rev. Stat. Ann. § 532.060(2).

“Any person convicted of [promoting human trafficking] shall be ordered to pay, in addition to any other fines, penalties, or applicable forfeitures, a human trafficking victims service fee of not less than ten thousand dollars ([USD] 10,000) to be remitted to the [human trafficking victims fund]” Ky. Rev. Stat. Ann. § 529.130.

iii. Statute of Limitations

The prosecution of this felony has no period of limitation and may be commenced at any time. Ky. Rev. Stat. Ann. § 500.050(1).

c. Ky. Rev. Stat. Ann. § 529.150 (2013) – Forfeiture

“All property used in connection with or acquired as a result of a violation of [Ky. Rev. Stat. Ann. §] 529.100 or 529.110 shall be subject to forfeiture.” Ky. Rev. Stat. Ann. § 529.150(1).

Proceeds from forfeited assets are distributed:

- (a) Fifty percent (50%) ... to the human trafficking victims fund;
- (b) Forty-two and one-half percent (42.5%) ... to the law enforcement agency or agencies that seized the property, to be used for direct law enforcement purposes; and
- (c) Seven and one-half percent (7.5%) ... to the Office of the Attorney General or, in the alternative, to the Prosecutors Advisory Council for deposit on behalf of the Commonwealth’s attorney or county attorney who has participated in the forfeiture proceeding

Ky. Rev. Stat. Ann. § 529.150(2).

d. Ky. Rev. Stat. Ann. § 529.170 (2014) – Affirmative Defense

“A person charged under [Chapter 529], or charged with an offense which is not a violent crime as defined in [Ky. Rev. Stat. Ann. §] 17.165, may assert being a victim of human trafficking as an affirmative defense to the charge.” Ky. Rev. Stat. Ann. § 529.170.

e. Ky. Rev. Stat. Ann. § 529.160 (2014) – Expungement

When a person is charged or convicted under [Chapter 529], or with an offense which is not a violent crime as defined in [Ky. Rev. Stat. Ann. §] 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.

Ky. Rev. Stat. Ann. § 529.160. A violent crime under Ky. Rev. Stat. Ann. § 17.165 is defined as “a conviction of or guilty plea to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.” Ky. Rev. Stat. Ann. §17.165.

f. Ky. Rev. Stat. Ann. § 630.125 – Immunity for Child Trafficking Victim

If reasonable cause exists to believe a child is a victim of human trafficking, as defined in [Ky. Rev. Stat. Ann. §] 529.010, the child shall not be charged with or adjudicated [found] guilty of a status offense related to conduct arising from the human trafficking of the child unless it is determined at a later time that the child was not a victim of human trafficking at the time of the offense.

Ky. Rev. Stat. Ann. § 630.125.

g. Ky. Rev. Stat. Ann. § 431.063 (2007) – Trafficking Victim Not to Be Incarcerated Pending Trial

A victim of human trafficking shall not be held in a detention center, jail, or other secure facility pending trial for an offense arising from the human trafficking situation, except where the incarceration is found to be the least restrictive alternative to securing the appearance of that person before the court or the release of the person under any other reasonable condition would be a clear threat to public safety.

Ky. Rev. Stat. Ann. § 431.063.

2. Online Child Sexual Exploitation and Child Pornography Offenses

Ky. Rev. Stat. Ann. § 531.310 – Use of a Minor in a Sexual Performance

Ky. Rev. Stat. Ann. § 531.320 – Promoting a Sexual Performance by a Minor

Ky. Rev. Stat. Ann. § 531.335 – Possession or Viewing of Matter Portraying a Sexual Performance by a Minor

Ky. Rev. Stat. Ann. § 531.340 – Distribution of Matter Portraying a Sexual Performance by a Minor

Ky. Rev. Stat. Ann. § 531.350 – Promoting Sale of Material Portraying a Sexual Performance by a Minor

Ky. Rev. Stat. Ann. § 531.360 – Advertising Material Portraying a Sexual Performance by a Minor

Ky. Rev. Stat. Ann. § 531.370 – Using Minors to Distribute Material Portraying a Sexual Performance by a Minor

3. Ky. Rev. Stat. Ann. § 17.510 (2018) – Sex Offender Registry

Adults who commit a sex crime or criminal offense against a victim who is a minor, including human trafficking involving commercial sexual activity or promoting human trafficking involving commercial sexual activity, are required to register with the appropriate local probation and parole office in the county in which they intend to reside.

B. Civil Liability Statutes

1. Ky. Rev. Stat. Ann. § 431.082 (2013) – Civil Lawsuits

a. Summary

After a defendant’s conviction for a human trafficking offense, among some other kinds of offenses, a victim may bring a civil lawsuit against the defendant. Ky. Rev. Stat. Ann. § 431.082(1).

b. Damages and Other Relief

The plaintiff may be awarded compensatory and punitive damages. Ky. Rev. Stat. Ann. § 431.082(4). A prevailing plaintiff also “shall be entitled to attorney’s fees and all other costs incurred in bringing the [lawsuit], including but not limited to the services of expert witnesses, testing and counseling, and medical and psychological treatment, and other expenses reasonably incurred as a result of the criminal act.” Ky. Rev. Stat. Ann. § 431.082(2).

c. Statute of Limitations

The plaintiff must commence the civil lawsuit within five years after the claim accrued. Ky. Rev. Stat. Ann. § 413.120.

2. Ky. Rev. Stat. Ann. § 413.2485 (2017) – Civil Lawsuit for Trafficked Adult’s Damages Resulting from Commercial Sexual Activity

a. Summary

A person may bring a civil lawsuit to recover “damages for an injury or illness suffered as a result of an act or series of acts against a person eighteen (18) years old or older that meets the criteria of ... [Ky. Rev. Stat. Ann. § 529.100 (human trafficking) or 529.110 (promoting human trafficking)] where the offense involves commercial sexual activity” Ky. Rev. Stat. Ann. § 413.2485(2). ““No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring” the lawsuit. Ky. Rev. Stat. Ann. § 413.2485(3).

b. Damages and Other Relief

A plaintiff may recover damages for injury and illness suffered as a result of the defendant’s acts. Ky. Rev. Stat. Ann. § 413.2485.

c. Statute of Limitations

This civil lawsuit

shall be brought before whichever of the following periods last expires:

- (a) Within five (5) years of the commission of the act or the last of a series of acts by the same perpetrator;
- (b) Within five (5) years of the date the victim knew, or should have known, of the act;
- (c) Within five (5) years upon knowledge or identity of the perpetrator; or
- (d) Within five (5) years of the conviction of a civil defendant for ... [Ky. Rev. Stat. Ann. § 529.100 (human trafficking) or 529.110 (promoting human trafficking) where the offense involves commercial sexual activity].

Ky. Rev. Stat. Ann. § 413.2485(2).

3. Ky. Rev. Stat. Ann. § 413.249 (2021) – Civil Lawsuit for Trafficked Minor’s Damages Resulting Commercial Sexual Activity

a. Summary

A person may bring a civil lawsuit to recover damages for injury or illness suffered as a result of “childhood sexual assault or abuse,” which includes a human trafficking offense involving commercial sexual activity and includes a violation of Ky. Rev. Stat. Ann. Chap. 531 involving a minor or depiction of a minor. Ky. Rev. Stat. Ann. § 413.249(1)(a). “No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring” the lawsuit. Ky. Rev. Stat. Ann. § 413.249(1)(a).

b. Damages and Other Relief

A plaintiff may recover damages for injury and illness suffered as a result of the defendant’s acts.

c. Statute of Limitations

This civil lawsuit

shall be brought before whichever of the following periods last expires:

- (a) Within ten (10) years of the commission of the act or the last of a series of acts by the same perpetrator;
- (b) Within ten (10) years of the date the victim knew, or should have known, of the act;
- (c) Within ten (10) years after the victim attains the age of eighteen (18) years; or
- (d) Within ten (10) years of the conviction of a civil defendant for an offense included in the definition of childhood sexual assault or abuse.

Ky. Rev. Stat. Ann. § 413.249(2). These time periods:

shall apply to civil [lawsuits] for recovery of damages for injury or illness against:

- (a) A person alleged to have committed the act; or
- (b) An entity that owed a duty of care to the plaintiff, where a wrongful or negligent act by an employee, officer, director, official, volunteer, representative, or agent of the entity was the legal cause of the [act] that resulted in the injury to the plaintiff.

Ky. Rev. Stat. Ann. § 413.249(3).

“If a complaint is filed alleging an act of childhood sexual assault that occurred more than ten (10) years earlier, the complaint shall be accompanied by a motion to seal The clerk of court must immediately seal the complaint”
Ky. Rev. Stat. Ann. § 413.249(4).

The victim does not have a potential claim “against a third party unless the third party failed to act as a reasonable person or entity in complying with their duties to the victim.” Ky. Rev. Stat. Ann. § 413.249(5).

In 2021, the Kentucky legislature revived childhood sexual assault lawsuits that were barred as of March 23, 2021, because the applicable statute of limitations had expired. Such lawsuits “may be brought if commenced within five (5) years of the date on which the applicable statute of limitations expired.” Ky. Rev. Stat. Ann. § 413.249(7)(b).

C. Additional Statutes Specific to Human Trafficking

1. Ky. Rev. Stat. Ann. §§ 337.010 *et seq.* (2021) – Wages and Hours

An employee owed wages may bring a civil lawsuit against an offending employer to recover unpaid wages. Ky. Rev. Stat. Ann. § 337.020. The court may also award a successful employee an amount equal to unpaid wages as liquidated damages, attorney’s fees, and costs. Ky. Rev. Stat. Ann. § 337.385. Employers may face additional civil penalties for noncompliance. Ky. Rev. Stat. Ann. § 337.990.

More information is available at: <https://labor.ky.gov/standards/Pages/Wages-and-Hours.aspx#FAQ>.

2. Ky. Rev. Stat. Ann. § 15A.068 (2013) – Department of Juvenile Justice and Child Trafficking Victims

If, during the course of screening, assessing, or providing services to a child committed to or in the custody of the [Department of Juvenile Justice (**department**)], there is reasonable cause to believe that the child is a victim of human trafficking as defined in [Ky. Rev. Stat. Ann. §] 529.010, the department shall:

- (a) File a report with the Cabinet for Health and Family Services ...;
- (b) Notify the child’s attorney that the child may be a victim of human trafficking; and
- (c) If the child does not pose a threat to public safety, petition the court to transfer custody from the department to the Cabinet for Health and Family Services.

Ky. Rev. Stat. Ann. § 15A.068.

3. Ky. Rev. Stat. Ann. § 15.334 (2020) – Law Enforcement Training

Students attending a law enforcement basic training course must be taught to investigate and screen cases for human trafficking, about human trafficking laws, and about resources for victims of human trafficking.

4. Ky. Rev. Stat. Ann. § 15.718 (2013) – Government Attorneys and Staff Training

At least once every two years, the Attorney General shall provide initial training courses and continuing education courses for state and county attorneys and their staff concerning:

[t]he appropriate response to victims of human trafficking, including but not limited to screening for victims of human trafficking, federal and state legislation on human trafficking, appropriate services and referrals for victims of human trafficking, working with interpreters, and agency protocol for handling child trafficking cases.

Ky. Rev. Stat. Ann. § 15.718.

5. Ky. Rev. Stat. Ann. § 16.173 (2013) – Kentucky State Police Unit to Receive and Investigate Trafficking Complaints

The Department of Kentucky State Police shall designate a unit ... to receive and investigate complaints of human trafficking. The unit shall cooperate with and assist prosecutorial agencies and local and federal law enforcement, as well as law enforcement from other states, in the receipt and investigation of complaints of human trafficking.

Ky. Rev. Stat. Ann. § 16.173.

6. Ky. Rev. Stat. Ann. § 176.415 (2017); Ky. Rev. Stat. Ann. § 156.095 (2020) – Posters

“The Department of Highways shall post in every restroom located on the premises of each rest area in the Commonwealth a printed sign in English and Spanish ... displaying the current telephone hotline number of the National Human Trafficking Resource Center” Ky. Rev. Stat. Ann. § 176.415(2). “Every public school shall prominently display the ... National Human Trafficking Reporting Hotline number administered by the United States Department for Health and Human Services.” Ky. Rev. Stat. Ann. § 156.095(8)(g).

7. Ky. Rev. Stat. Ann. § 336.075 (2013) – Labor Cabinet Reports of Human Trafficking

The Labor Cabinet:

shall report all incidents of human trafficking as defined in [Ky. Rev. Stat. Ann. §] 529.010 about which the cabinet knows or has reasonable cause to believe within twenty-four (24) hours to a local law enforcement agency or the Department of Kentucky State Police, and the appropriate Commonwealth’s attorney or county attorney.

Ky. Rev. Stat. Ann. § 336.075(1). “Anyone acting upon reasonable cause in the making of a report ... in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed.” Ky. Rev. Stat. Ann. § 336.075(2).

8. Ky. Rev. Stat. Ann. § 422.295 (2007) – Confidentiality of Communications Between Human Trafficking Victim and Caseworker

“A human trafficking victim has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made to a trafficking victim counselor for the purpose of receiving counseling, therapy, services, information, or treatment related to human trafficking.” Ky. Rev. Stat. Ann. § 422.295(2).

9. Ky. Rev. Stat. Ann. § 529.140 (2020) – Human Trafficking Victims Fund

The Human Trafficking Victims Fund distributes money “to agencies serving victims of human trafficking, including but not limited to law enforcement agencies, prosecutorial agencies, and victim service agencies” in accordance with procedures developed by the Office of the Attorney General. Ky. Rev. Stat. Ann. § 529.140(3)

10. Ky. Rev. Stat. Ann. § 620.029 (2013) – Health and Family Services Cabinet and Child Trafficking Victims

The Cabinet for Health and Family Services (**cabinet**) shall work with other agencies to investigate reports alleging a child is a victim of human trafficking and provide the child with appropriate treatment and services. The cabinet annually shall “submit to the Legislative Research Commission a comprehensive report detailing the number [of] reports the cabinet has received, the number of reports in which the cabinet has investigated and determined a child is the victim of human trafficking, and the number of cases in which services were provided.” Ky. Rev. Stat. Ann. § 620.029(2).

11. Ky. Rev. Stat. Ann. §§ 620.030, 620.040 (2019) – Reports of Child Trafficking Victims

Kentucky imposes a duty to report human trafficking on certain individuals. Ky. Rev. Stat. Ann. § 620.030.

Any person who knows or has reasonable cause to believe that a child is a victim of human trafficking as defined in [Ky. Rev. Stat. Ann. §] 529.010 shall immediately cause an oral or written report to be made to a local law enforcement agency or the Department of Kentucky State Police; or the [Cabinet for Health and Human Services] or its designated representative; or the Commonwealth’s attorney or the county attorney; by telephone or otherwise.

Ky. Rev. Stat. Ann. § 620.030(3). An intentional violation of the duty to report 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. Ky. Rev. Stat. Ann. § 620.030(8).

The recipient of:

a report alleging a child is a victim of human trafficking pursuant to [Ky. Rev. Stat. Ann. §] 620.030(3) shall immediately notify the [Cabinet for Health and Human Services] or its designated representative, the local law enforcement agency or the Department of Kentucky State Police, and the Commonwealth’s or county attorney of the ... report.

Ky. Rev. Stat. Ann. § 620.040(1).

D. Significant Cases

No significant cases regarding Kentucky’s trafficking statutes were found.

E. Academic Research/Papers

No academic research or papers were found regarding Kentucky’s human trafficking statutes.

F. Resources

Kentucky Attorney General’s Office:

- <https://ag.ky.gov/Priorities/Protecting-Kentuckians/Pages/Human-Trafficking.aspx>;
- <https://youreyessavelives.ky.gov/Pages/Laws-and-Human-Trafficking.aspx>

Kentucky Department of Education:

<https://education.ky.gov/school/sdfs/Pages/Human-Trafficking.aspx>

National Human Trafficking Hotline (Kentucky):

<https://humantraffickinghotline.org/state/kentucky>

Shared Hope International, Kentucky Report Card (2019):

http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_KY.pdf

Shared Hope International, Kentucky Analysis and Recommendations (2019)

http://sharedhope.org/PICframe9/analysis/PIC_AR_2019_KY.pdf

U.S. Department of Health & Human Services, *Kentucky: Efforts to Combat Trafficking* (2017):

https://nhhtac.acf.hhs.gov/sites/default/files/2019-06/kentucky_profile_efforts_to_combat_human_trafficking.pdf

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