

Kentucky

WOMEN IN PRISON: 1,411 (12/03) ¹

Custodial Sexual Misconduct

Custodial Sexual Misconduct – Statute

§510.120 – *Sexual abuse in the second degree.*ⁱ

Kentucky’s law went into effect on 04/06/00. It adds custodial sexual misconduct to the prohibited sexual assaults in its criminal code.

Does the law impose a criminal penalty on the inmate?	No	The law does not penalize the inmate.
Does the statute cover all relevant forms of sexual abuse?	Yes	The law covers all forms of sexual contact.
Does the law allow an officer to claim an inmate consented to the sexual act(s) to avoid prosecution?	No	The consent of the victim is irrelevant.
Does the statute cover all custodians and staff in contact with inmates?	Yes	The law covers all employees and contractors.
Does the statute cover all places where inmates might be abused?	Yes	The law covers all places of detention from arrest to release, and also protects those who are being supervised, evaluated, or treated.
Is the penalty a felony?	No	Violation is a Class A misdemeanor.

Custodial Sexual Misconduct – Allegations and Incidents

Indictments/Convictions (answer to AI letter requesting information) ²	The Kentucky Attorney General’s Office does not compile statistics on prosecution or convictions under the state CSM statute. ³ In 2005, the AG referred Amnesty International to the Kentucky Department of Corrections. ⁴ AI did not receive a response from the DOC on this issue.
Incidents reported in select media since January 2000	- Roederer Correctional Complex at La Grange: Seven male corrections officers were charged with first-degree official misconduct for allegedly having sex with female inmates at a boot camp for men and women at the state's Roederer Correctional Complex at La Grange. (<i>Lexington Herald Leader</i> , 12/20/01)
	- Washington County Jail: Officer Combs pleaded guilty to charges of having sex with a female inmate. He was sentenced to one and a half year’s probation. (<i>The Courier Journal</i> , 11/11/00)
	- Jefferson County Youth Center: A seven-month probe into allegations of sexual misconduct at the Jefferson County Youth Center ended and no charges were brought against employees there. Commonwealth’s Attorney David Stengel said that there is “strong suspicion” that some staff engaged in inappropriate sexual activity with juveniles remanded there by the courts. But, reportedly, nearly all of the alleged victims refused to cooperate, making it impossible to gain a conviction. In the wake of the investigation, two employees have been fired, one resigned and five others were suspended. (<i>AP State and Local Wire</i> 04/11/00).

¹ The text of Kentucky’s law is included at the end of this section.

Custodial Sexual Misconduct – Policies, Procedures and Practices of Guarding Specific to Women

The following is based on data provided by the Kentucky Department of Corrections in response to AI's survey in 2000 and 2002. AI did not receive data from the Kentucky Department of Corrections in 2005. Additional information from other sources is included where available.

Is the current Department of Corrections policy on custodial sexual misconduct language explicit?	Yes	Policy includes direct and specific language about the nature of the sexual behaviors prohibited. ⁵
Allow cross-gender pat-down searches?		No information provided.
What is the percentage of female officers in relation to male officers?		No information provided.
Restrictions on the duties of male guards?		No information provided.
Staff training on sexual misconduct?		No information provided.
Inform inmates of agency policies and reporting procedures on sexual misconduct?		No information provided.

Custodial Sexual Misconduct - Policies and Procedures Guiding Official Response

The following is based on the Kentucky Department of Corrections response to AI's surveys, please see above.

Is medical help available for the victim of alleged sexual abuse?	Yes	According to the Kentucky DOC, medical staff is on hand. ⁶
Are immediate mental health services available for the victim of alleged sexual abuse?	Yes	According to the Kentucky DOC, mental health professionals are available at state and private prisons. ⁷
Is counseling available for the victim of alleged sexual abuse?	Yes	See above.
Is a rape kit taken?	Yes	According to the Kentucky DOC, a rape kit is taken ⁸
Are there special procedures for investigating allegations of sexual misconduct?	--	According to the Kentucky DOC, staff members are trained in how to conduct investigations in state and private prisons. ⁹
Is there a system for reporting allegations of custodial sexual misconduct within the DOC?	Yes	According to the Kentucky DOC, in both state and private prisons, inmates are assigned to treatment officers who are available to take complaints. ¹⁰
Is there a system for reporting allegations of custodial sexual misconduct directly to a body external to the DOC?		No information provided.
Is the investigation external?	No	Investigations are internal until criminal charges are contemplated. ¹¹
If there is an external investigation, how is it triggered?		No information provided.
Are special measures taken to shield alleged victims from retaliation?	No	Kentucky DOC claims not to permit retaliatory behaviour, but there is no explicit policy in effect. ¹²
If so, do the measures include solitary confinement or lock-down of the inmate?		No information provided.
Is there an independent body, such as a Corrections Ombudsman, with independent oversight of correctional facilities and the DOC?		No information provided.

Is there a system in place to track investigations, indictments and convictions for custodial sexual misconduct?		No information provided.
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Custodial Sexual Misconduct – Pending Legislative Proposals

<i>None</i>

Pregnancy in Custody

Pregnancy - Statute

Legislation banning shackling in the third trimester or during labor	No	Kentucky has no legislation limiting the use of shackling on pregnant inmates.
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Pregnancy: Policies, Procedures and Practices

The following is based on the Kentucky Department of Corrections response to AI's surveys, please see above.

Use of restraints in third trimester		Not known. According to the Kentucky DOC, the Department does not make such information public for security reasons. ¹³
Restraints during transport		See above.
Restraints during labor		Kentucky DOC restricts policy for security reasons, but according to letter from DOC, use of restraints is based on hospital protocol and procedure. ¹⁴
Officer in delivery room		Policy restricted, see above.

Contact information

KENTUCKY DEPARTMENT OF CORRECTIONS

Commissioner John D. Rees Department of Corrections P.O. Box 2400 Frankfort, KY 40602-2400 Phone: (502) 564-4726 Fax: (502) 564-5037	Homepage: http://www.corrections.ky.gov/
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KENTUCKY DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN

Kentucky Correctional Institute for Women Female inmates: 712 ¹⁵ Warden Doris W. Deuth 3000 Ash Ave. Pee Wee Valley, KY 40056 Phone: (504) 241-8454 Fax: (504) 241-0372
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KENTUCKY EXECUTIVE

<p>Governor Ernie Fletcher Governor's Office 700 Capitol Avenue Frankfort, KY 40601 Phone: (502) 564-2611 Fax: (502) 564-2517 Email: http://governor.ky.gov/contact.htm</p>	<p>Home page: http://gov.state.ky.us/</p> <p>Elected: 2003</p>
<p>Attorney General Greg D. Stumbo Office of the Attorney General 700 Capitol Avenue, Suite 118 Frankfort, Kentucky 40601 Phone: (502) 696-5300; Fax: (502) 564-2894</p>	<p>Home page: http://ag.ky.gov/</p> <p>Elected: 2003</p>

KENTUCKY LEGISLATIVE INFORMATION

<p>Legislative Session: The Kentucky Legislature convenes in Regular Session for 60 days on the first Tuesday in January of each year. It convenes in Special Sessions at the call of the Governor. Kentucky's present Constitution, adopted in 1891 and amended several times since, contains a number of provisions that govern the legislative branch. These provisions define session dates, legislative districts, terms and qualifications of office, the conduct of legislative business, legislative leadership, and legislative support staff.</p> <p>Senate: 4-year term House: 2-year term</p>	<p>Legislative information home page: http://www.lrc.state.ky.us/home.htm</p> <p>Bill Search: In order to search for a bill, a legislative session must first be selected. See: http://www.lrc.state.ky.us/legislat/legislat.htm</p> <p>Bill Status Line: 1-888-701-1488</p> <p>Bill information phone number: (502) 564-8100</p>
<p>SENATE 700 Capital Avenue, Frankfort, KY 40601</p>	<p>Senate Home Page: http://www.legis.state.wv.us/ Email Senators: cglagola@mail.wvnet.edu</p>
<p>Kentucky House of Representatives 700 Capital Avenue, Frankfort, KY 40601</p>	<p>Home Page: http://www.legis.state.wv.us/ Email Delegates: jemswlr@mail.wvnet.edu</p>

WOMEN IN PRISON - NGO RESOURCES

The organizations listed are not endorsed by or affiliated with Amnesty International.

<p>Kentucky-CURE Eddyville, KY 42038 Phone: (502) 388-2528</p>
<p>ACLU of Kentucky 315 Guthrie Street, Suite 300 Louisville, KY 40202-3820 Phone: (502)581-1181 Fax: 502-589-9687 Website: www.aclu-ky.org</p>

Kentucky's Custodial Sexual Misconduct Statute

510.120 Sexual abuse in the second degree.

(1) A person is guilty of sexual abuse in the second degree when:

...

(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 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 engaged in the conduct constituting the offense, he and the offender were married to each other.

(2) Sexual abuse in the second degree is a Class A misdemeanor.

¹ Bureau of Justice Statistics, *Prisoners in 2003*, NCJ205335, 11/2004, available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/p03.pdf>, as per 01/27/06.

² The information does not reflect prosecutions or convictions under rape statutes.

³ Letter from Jean Ann Myatt, Policy Analyst, Kentucky Attorney General's Office, 06/18/02.

⁴ Email from Vickie L. Wise, Director, Victims Advocacy Division, Office of the Attorney General, 08/16/05.

⁵ US Department of Justice National Institute of Corrections Information Center, "Sexual Misconduct in Prisons: Law, Remedies, and Incidence," National Institute of Corrections, Colorado, May 2000.

⁶ Facsimile from the Kentucky DOC, Information and Technology Branch, Jaime Cummins, 07/18/02.

⁷ Facsimile from Jaime Cummins, Information and Technology Branch, Kentucky DOC, 07/18/02.

⁸ Facsimile from Jaime Cummins, Information and Technology Branch, Kentucky DOC, 07/18/02.

⁹ Facsimile from Jaime Cummins, Information and Technology Branch, Kentucky DOC, 07/18/02.

¹⁰ Facsimile from Jaime Cummins, Information and Technology Branch, Kentucky DOC, 07/18/02.

¹¹ Facsimile from Jaime Cummins, Information and Technology Branch, Kentucky DOC, 07/18/02.

¹² Facsimile from Jaime Cummins, Information and Technology Branch, Kentucky DOC, 07/18/02.

¹³ Letter from Tamela Biggs, Staff Attorney, Kentucky DOC, 11/14/00.

¹⁴ Letter from Tamela Biggs, Staff Attorney, Kentucky DOC, 11/14/00.

¹⁵ Facsimile from Jaime Cummins, Information and Technology Branch, Kentucky DOC, 07/18/02.