

Appendix A

Definitions of Law Violations

Important:

This guide is to serve as clarification for school personnel when coding law violations upon school property. These definitions are not legally binding and should only be used to assist school personnel in coding law violations at their school for Safe School data collection purposes. For any questions that arise regarding the legal definition of a student action, please consult with your School Board Attorney or local law enforcement representative.

Code Description

11 Criminal Homicide - A person is guilty of criminal homicide when he causes the death of another human being under circumstances which constitute murder, manslaughter in the first degree, manslaughter in the second degree, or reckless homicide.

20 Forcible Rape/Forcible Sodomy - A person is guilty of forcible rape when he engages in sexual intercourse/deviate sexual intercourse with another person by forcible compulsion; or he engages in sexual intercourse/deviate sexual intercourse with another person who is incapable of consent because he: is physically helpless; or is less than twelve (12) years old. "Deviate sexual intercourse" means any act of sexual gratification involving the sex organs of one person and the mouth or anus of another; or penetration of the anus of one person by a foreign object manipulated by another person (other than generally recognized health-care practices). Sexual intercourse means sexual intercourse in its ordinary sense and includes penetration of the sex organs of one person by a foreign object manipulated by another person.

30 Robbery - The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force and/or putting the victim in fear.

50 Burglary - A person is guilty of burglary when, with the intent to commit a crime, he knowingly enters or remains unlawfully in a building. A building, in addition to its ordinary meaning, means any structure, vehicle, watercraft or aircraft where any person lives or where people assemble for purposes of business, government, education, religion, entertainment or public transportation. Thus, breaking into a bus and stealing something from the bus would be counted as burglary.

60 Larceny/Theft - The intentional taking of the property of another.

70 **Motor Vehicle Theft** - The theft or attempted theft of a motor vehicle.

90 **Arson** - Any intentional burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle, or aircraft.

100 **Forgery** - Occurs when a person, with intent to defraud, deceive or injure another, falsely makes, completes or alters a written instrument (e.g., checks, transcripts, official identification, currency).

110 **Fraud** is obtaining money or property by false pretenses.

120 **Embezzlement** - Misappropriating or misapplication of money or property entrusted to one's care, custody, or control, to include altering or forging financial records.

130 **Stolen Property (Receiving)** - Violations include buying, receiving, possessing of stolen property.

140 **Vandalism (Criminal Mischief)** - The intentional destruction, injury, disfigurement, or defacement of any public or private property without consent of the owner or person having custody or control (i.e., by cutting, tearing, breaking, marking, painting, drawing, or covering with filth)

151 **Weapon A - Handgun** – A handgun is any pistol or revolver originally designed to be fired by the use of a single hand, or any other firearm originally designed to be fired by the use of a single hand. A firearm is any weapon that will expel a projectile by the action of an explosive. This offense encompasses manufacture, sale, or possession of handguns on school property or at a school function. By Kentucky law (KRS 527.070), this excludes students 18 years of age and older who have these firearms in their automobile on school property.

152 **Weapon B - Rifle** – A rifle is a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger. This category also includes **shotguns**. This offense encompasses sale or possession of rifles or shotguns on school property or at a school function. By Kentucky law, this excludes students 18 years of age and older who have these firearms in their automobile on school property.

153 **Weapon C - Other Firearms** – Weapons other than handguns, rifles, or shotguns that will expel a projectile by the action of an explosive. Examples of other firearms include air guns (that use pneumatic pressure or pressurized cartridges to fire a projectile) also known as BB guns; and other homemade firearms. By Kentucky law, this excludes students 18 years of age and over who have these firearms in their automobile on school property.

154 Weapon D - Other- Any object that is capable of being readily used by one person to inflict severe bodily injury upon another person. Examples include (but are not limited to) knives, artificial knuckles, club, baton, nunchaku karate sticks. This offense encompasses manufacture, sale, or possession of these types of weapons on school property or at a school function. By Kentucky law, this excludes students 18 years of age and over who have these weapons in their automobile on school property.

160 Prostitution/Vice - A person is guilty of prostitution when he or she engages or agrees or offers to engage in sexual conduct with another person in return for a fee or something of value. Also includes keeping a bawdy house, procuring, or transporting women for immoral purposes.

For the definitions included below, "...a word importing the masculine gender only may extend and be applied to females as well as males" (KRS 446.020). Thus, any reference to "he" in the descriptions below also includes females as well.

170 Sex Offense- Includes the following offenses defined below: indecent exposure, statutory rape, sexual assault/abuse, and other sexual offenses.

Indecent Exposure - A person is guilty of indecent exposure when he or she intentionally exposes his or her genitals under circumstances in which he or she knows or should know that his or her conduct is likely to cause affront or alarm to another person on school grounds or at a school function. This is not to be confused with violation 175.

Statutory Rape - A person is guilty of statutory rape (in KY, rape in the second degree) when: (a) Being eighteen (18) years old or more, he or she engages in sexual intercourse with another person less than fourteen (14) years old; or (b) He engages in sexual intercourse with another person who is mentally incapacitated; (c) Being twenty-one (21) years old or more he engages in sexual intercourse with another person less than sixteen (16) years old.

Sexual Assault (Abuse) - A person is guilty of sexual assault when: (a) He subjects another person to sexual contact (touching intimate parts) by forcible compulsion; or (b) He subjects another person to sexual contact who is incapable of consent because he: is physically helpless; less than twelve (12) years old; or is mentally incapacitated.

Other Sexual Offenses - A person is guilty of other sexual offenses when they engage in some type of sexual activity not covered above on school grounds or at a school function. (e.g., sexual intercourse or deviate sexual intercourse not covered within other listed offenses)

Each of the codes in the 1800 series includes possession and/or distribution of the drug in question on school property or at a school-sponsored function.

1801 Other Drug Possession and Use – Includes possession and use of controlled substances or unauthorized possession of over-the-counter drugs not specifically listed elsewhere.

1802 Other Drug Distribution – Includes distribution of controlled substances or unauthorized possession of over-the-counter drugs not specifically listed elsewhere.

1811 Alcohol Possession and Use - Includes possession and use of a liquor, brew, or mixture containing alcohol. Examples include beer, whiskey, and wine.

1812 Alcohol Distribution - Includes distribution of a liquor, brew, or mixture containing alcohol. Examples include beer, whiskey, and wine.

1821 Marijuana Possession and Use - Includes possession and use of marijuana.

1822 Marijuana Distribution - Includes distribution of marijuana.

1831 Hallucinogenics Possession and Use – Includes possession and use of a psychoactive drug that induces hallucinations or altered sensory experiences (e.g., LSD, PCP).

1832 Hallucinogenics Distribution – Includes distribution of a psychoactive drug that induces hallucinations or altered sensory experiences (e.g., LSD, PCP).

1841 Amphetamines Possession and Use - Includes possession and use of amphetamine or methamphetamine.

1842 Amphetamines Distribution – Includes distribution of amphetamine or methamphetamine.

1851 Barbiturates Possession and Use – Includes possession and use of barbiturates. Barbiturates are organic compounds that produce sedative and hypnotic effects (e.g., Nembutal, Luminal, Seconal, Pentothal).

1852 Barbiturates Distribution – Includes distribution of barbiturates. Barbiturates are organic compounds that produce sedative and hypnotic effects (e.g., Nembutal, Luminal, Seconal, Pentothal).

1861 Heroin Possession and Use - Includes possession and use of heroin.

1862 Heroin Distribution - Includes distribution of heroin.

1871 **Cocaine/Crack Possession and Use** - Includes possession and use of cocaine or crack.

1872 **Cocaine/Crack Distribution** – Includes distribution of cocaine or crack.

1881 **Prescription Drugs Possession and Use** – Unauthorized possession and use of medications that are available only with prescriptions from a doctor or dentist to a pharmacist.

1882 **Prescription Drugs Distribution** – Unauthorized possession and/or distribution of medications that are available only with prescriptions from a doctor or dentist to a pharmacist.

1891 **Inhalants Possession and Use** - Includes possession and use of Inhalants.

1892 **Inhalants Distribution** - Includes distribution of Inhalants.

190 **Gambling** - Staking or risking something of value upon the outcome of a contest, game, gaming scheme, or gaming device which is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome, on school property or at a school-sponsored event. This does not include school-sanctioned activities of chance.

210 **Driving under the influence** - Operating a motor vehicle with alcohol concentration of or above 0.08 for those above 21 and 0.02 for those under age 21, or while under the influence of alcohol or other substance which impairs driving ability.

230 **Under Influence** - Includes all offenses of intoxication with the exception of driving under the influence. In Kentucky, this offense equates to alcohol intoxication and/or public intoxication, which occurs when a person appears in a public place manifestly under the influence of alcohol, a controlled substance, or other intoxicating substance.

240 **Disorderly Conduct** - Committing a breach of the peace. In Kentucky, a person is guilty of disorderly conduct when in a public place and with intent to cause public inconvenience, annoyance or alarm, or creating a risk thereof, he: (a) Engages in fighting or in violent, tumultuous or threatening behavior; or (b) Makes unreasonable noise; or (c) Refuses to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard or other emergency; or (d) Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose.

260 **All Other Offenses** - To include (but not limited to) blackmail and extortion; criminal anarchism; criminal syndicalism; and kidnapping.

280 **Loitering** - (Loitering)

A person is guilty of loitering when he:

(a) Loiters or remains in a public place for the purpose of gambling with cards, dice or other gambling paraphernalia, or (b) Loiters or remains in a public place for the purpose of unlawfully using a controlled substance; or (c) Loiters or remains in or about a school, college or university building or grounds, not having any reason or relationship involving custody of or responsibility for a pupil or student or any other specific legitimate reason for being there and not having written permission from anyone authorized to grant the same

301 **Assault in the First Degree**

Definition from KRS 508.010:

(1) A person is guilty of assault in the first degree when:

- a. He intentionally causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument; or*
- b. Under circumstances manifesting extreme indifference to the value of human life he wantonly engages in conduct which creates a grave risk of death to another and thereby causes serious physical injury to another person.*

(2) Assault in the first degree is a Class B Felony.

For purposes of the school setting, an individual who intentionally uses a deadly weapon, dangerous instrument, or other means to cause **serious physical injury** to another is guilty of Assault in the first degree. This is the most serious assault; its code should be reserved for situations when the intent of the offender is to cause death or serious injury. To meet these criteria, the victim has to incur potential life threatening injury, serious disfigurement, or prolonged loss of the use of a body part from the incident.

302 **Assault in the second degree**

Definition from KRS 508.020:

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

- a. He intentionally causes serious physical injury to another person; or*
- b. He intentionally causes physical injury to another person by means of a deadly weapon or a dangerous instrument; or*
- c. He wantonly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument.*

(2) Assault in the second degree is a Class C felony.

For purposes of the school setting, an individual who intentionally causes physical injury to another person with a deadly weapon or dangerous instrument or intentionally causes serious injury to another person will be coded as Assault in the 2nd degree.

305 Menacing

Definition from KRS 508.050:

- (1) A person is guilty of menacing when he intentionally places another person in reasonable apprehension of imminent physical injury.*
- (2) Menacing is a Class B misdemeanor.*

Menacing in the school environment occurs when one student intentionally engages in an action (or threatens to engage in an action) that has the potential to injure another student or staff member. An example might be when one student threatens another student with physical harm, but does not necessarily follow through immediately with that threat.

306 Felony Wanton Endangerment

Definition from KRS 508.060:

- (1) A person is guilty of wanton endangerment in the first degree when, under circumstances manifesting extreme indifference to the value of human life, he wantonly engages in conduct which creates a substantial danger of death or serious physical injury to another person.*
- (2) Wanton endangerment in the first degree is a Class D felony.*

Felony Wanton endangerment in the school environment occurs when a student engages in an action that puts others at serious risk of death or serious physical injury because of that action. Examples might include driving a car through a crowded parking lot at a high rate of speed, bringing an angry pit bulldog to school and releasing it in the crowded hallway, or engaging in other intentional activities that put students at risk of death or serious physical injury.

307 Misdemeanor Wanton Endangerment

Definition from KRS 508.070:

- (1) A person is guilty of wanton endangerment in the second degree when he wantonly engages in conduct which creates a substantial danger of physical injury to another person.*
- (2) Wanton endangerment in the second degree is a Class A misdemeanor.*

Misdemeanor wanton endangerment in the school environment occurs when a student engages in an action that puts others at substantial danger of physical injury. An example might include when one student in a shop setting chases another student with a portable drill.

308 and 309 **Felony and Misdemeanor Criminal Abuse**

1st, 2nd, and 3rd Degree Criminal Abuse

According to the Kentucky Revised Statutes 508.100, 508.110, and 508.120, criminal abuse can be classified in three different ways: Criminal abuse in the first degree, criminal abuse in the second degree, and criminal abuse in the third degree. The level of abuse will depend upon the intent and recklessness of the offender when engaging in the action that is classified as abuse. **It should be noted that these are not precise legal definitions.** Below we have listed the statutory definitions of abuse followed by the coding and classification criteria for abuse for school personnel.

508.090 Definitions for KRS 508.100 to 508.120.

The following definitions apply in KRS 508.100 to 508.120 unless the context otherwise requires:

- (1) "Abuse" means the infliction of physical pain, injury, or mental injury, or the deprivation of services by a person which are necessary to maintain the health and welfare of a person, or a situation in which an adult, living alone, is unable to provide or obtain for himself the services which are necessary to maintain his health or welfare.*
- (2) "Physically helpless" and "mentally helpless" means a person who lacks substantial capacity to defend himself or solicit protection from law enforcement agencies.*

Definition from:

KRS 508.100 Criminal abuse in the first degree

- (1) A person is guilty of criminal abuse in the first degree when he intentionally abuses another person or permits another person of whom he has actual custody to be abused and thereby:
 - (a) Causes serious physical injury; or*
 - (b) Places him in a situation that may cause him serious physical injury; or*
 - (c) Causes torture, cruel confinement or cruel punishment; to a person twelve (12) years of age or less, or who is physically helpless or mentally helpless.**
- (2) Criminal abuse in the first degree is a Class C felony.*

KRS 508.110 Criminal abuse in the second degree.

- (1) A person is guilty of criminal abuse in the second degree when he wantonly abuses another person or permits another person of whom he has actual custody to be abused and thereby:
 - (a) Causes serious physical injury; or*
 - (b) Places him in a situation that may cause him serious physical injury; or*
 - (c) Causes torture, cruel confinement or cruel punishment; to a person twelve (12) years of age or less, or who is physically helpless or mentally helpless.**
- (2) Criminal abuse in the second degree is a Class D felony.*

KRS 508.120 Criminal abuse in the third degree.

(1) A person is guilty of criminal abuse in the third degree when he recklessly abuses another person or permits another person of whom he has actual custody to be abused and thereby:

- (a) Causes serious physical injury; or*
 - (b) Places him in a situation that may cause him serious physical injury; or*
 - (c) Causes torture, cruel confinement or cruel punishment; to a person twelve (12) years of age or less, or who is physically helpless or mentally helpless.*
- (2) Criminal abuse in the third degree is a Class A misdemeanor.*

In general, criminal abuse in the school environment occurs when (a) a student tortures, confines, or punishes another student under 12 years of age or who is physically or mentally helpless; or (b) a student who has custody or is serving as the custodial individual for another student (e.g., sibling or child) allows that individual to be abused by another person in the school environment. When students engage in the abuse action intentionally, it might legally be classified as criminal abuse in the first degree; when they engage in that action wantonly (e.g., maliciously or unjustifiably), it would be criminal abuse in the second degree. When they engage in the action recklessly (e.g., because of carelessness), it generally would be criminal abuse in the third degree.

Felony abuse in the school setting happens when the above occurs intentionally and should be coded as **308- Felony Criminal Abuse**; misdemeanor occurs when it is because of carelessness and should be coded as **309- Misdemeanor criminal abuse**.

310, 320, and 330 Terroristic threatening, Bomb Threat, and Chemical/Biological/Nuclear Threats

(1) A person is guilty of one of these offenses when he or she:

- (a) Intentionally makes false statements that he or she or another person has placed weapon of mass destruction on:
 - 1. The real property or any building of any public or private elementary or secondary school, vocational school, or institution of postsecondary education;
 - 2. A school bus or other vehicle owned, operated, or leased by a school;
 - 3. The real property or any building public or private that is the site of an official school sanctioned function; or
 - 4. The real property or any building owned or leased by a government agency; or
- (2) Intentionally and without lawful authority, places a counterfeit weapon of mass destruction at any location or on any object specified in paragraph (a) of this subsection.
- (3) Intentionally:
 - (a) With respect to a school function, threatens to commit any act likely to result in death or serious physical injury to any student group, teacher, volunteer worker, or employee of a public or private elementary or secondary school, vocational school, or institution of postsecondary education, or to any other person reasonably expected to lawfully be on school property or at a school-sanctioned activity, if the

threat is related to their employment by a school, or work or attendance at school, or a school function. A threat directed at a person or persons or at a school does not need to identify a specific person or persons or school in order for a violation of this section to occur;

- (b) Makes false statements that he or she has placed a weapon of mass destruction at any location other than one specified in KRS 508.075; or
- (c) Without lawful authority places a counterfeit weapon of mass destruction at any location other than one specified in KRS 508.075.
- (d) He threatens to commit any crime likely to result in death or serious physical injury to another person or likely to result in substantial property damage to another person; or
- (e) He intentionally makes false statements for the purpose of causing evacuation of a building, place of assembly, or facility of public transportation.

Note: Activating fire alarms would be included in category 310 for reporting purposes.

Note: Bomb threats or threats of other explosive devices will be reported under category 320.

Note: Chemical, biological, or nuclear threats will be reported under category 330.

340 and 341- **Felony and Misdemeanor Stalking**

- (1) According to the Kentucky Revised Statutes 508.130, 508.140, and 508.150, stalking can be classified in two different ways: Stalking in the first degree and stalking in the second degree. The level of stalking will depend upon whether a protective order has previously been issued, whether there has been a previous stalking offense by the offender, and whether the stalking involved a deadly weapon. **It should be noted that these are not precise legal definitions.** Below we have listed the statutory definitions of stalking followed by the coding and classification criteria for stalking for school personnel.

508.130 Definitions for KRS 508.130 to 508.150.

As used in KRS 508.130 to 508.150, unless the context requires otherwise:

- (1) (a) *To "stalk" means to engage in an intentional course of conduct:*
 - 1. *Directed at a specific person or persons;*
 - 2. *Which seriously alarms, annoys, intimidates, or harasses the person or persons; and*
 - 3. *Which serves no legitimate purpose.*
- (b) *The course of conduct shall be that which would cause a reasonable person to suffer substantial mental distress.*
- (2) *"Course of conduct" means a pattern of conduct composed of two (2) or more acts, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct." If the defendant claims that he was engaged in*

constitutionally protected activity, the court shall determine the validity of that claim as a matter of law and, if found valid, shall exclude that activity from evidence.

(3) "Protective order" means:

(a) An emergency protective order or domestic violence order issued under KRS 403.715 to 403.785;

(b) A foreign protective order, as defined in KRS 403.7521(1);

(c) An order issued under KRS 431.064;

(d) A restraining order issued in accordance with KRS 508.155; and

(e) Any condition of a bond, conditional release, probation, parole, or pretrial diversion order designed to protect the victim from the offender.

508.140 Stalking in the first degree.

(1) A person is guilty of stalking in the first degree,

(a) When he intentionally:

1. Stalks another person; and

2. Makes an explicit or implicit threat with the intent to place that person in reasonable fear of:

a. Sexual contact as defined in KRS 510.010;

b. Serious physical injury; or

c. Death; and

(b) 1. A protective order has been issued by the court to protect the same victim or victims and the defendant has been served with the summons or order or has been given actual notice; or

2. A criminal complaint is currently pending with a court, law enforcement agency, or prosecutor by the same victim or victims and the defendant has been served with a summons or warrant or has been given actual notice; or

3. The defendant has been convicted of or pled guilty within the previous five (5) years to a felony or to a Class A misdemeanor against the same victim or victims; or

4. The act or acts were committed while the defendant had a deadly weapon on or about his person.

(2) Stalking in the first degree is a Class D felony.

508.150 Stalking in the second degree.

(1) A person is guilty of stalking in the second degree when he intentionally:

(a) Stalks another person; and

(b) Makes an explicit or implicit threat with the intent to place that person in reasonable fear of:

1. Sexual contact as defined in KRS 510.010;

2. Physical injury; or

3. Death.

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

In a school setting, a student stalks another student when he or she engages in behavior that intentionally alarms, annoys, intimidates, or harasses the student victim to the point that it causes mental duress for the student that is being stalked. These behaviors may

include threatening physical injury or death, sexually harassing or annoying behaviors, or other behaviors that are persistent and intimidating to the student victim.

An offense should be coded as **Felony Stalking – 340** when:

- (1) a protective order has been issued (or is pending) by a court to protect the victims(s) from the student allegedly engaged in stalking or;
- (2) when the student has been convicted of or pled guilty to a felony or to a Class A misdemeanor against the same victim or victims; or
- (3) when the stalking act(s) were committed while the student had a deadly weapon in their possession.

An offense should be coded as Misdemeanor Stalking – 341 when that student is stalking another student but that stalking does not meet any of the conditions outlined for Felony Stalking- 340.