

Clery & Minger Acts Terminology

Crime Definitions

(Except where otherwise noted, the definitions listed below are applicable to both Acts and are excerpted from the Federal Bureau of Investigation's Uniform Crime Reporting Program *Uniform Crime Reporting Handbook*; the specific wording of the definitions in the Minger Act may differ slightly from the federal definitions. The definitions for crimes specific to the Clery Act are also excerpted from the *Uniform Crime Reporting Handbook*. The definitions for crimes specific to the Minger Act are excerpted from the Kentucky Revised Statutes.)

I. CRIMINAL OFFENSES

A. CRIMINAL HOMICIDE

1. **MURDER AND NON-NEGLIGENT MANSLAUGHTER:** The willful (non-negligent) killing of one human being by another.
2. **NEGLIGENT MANSLAUGHTER:** The killing of a person through gross negligence.

B. SEX OFFENSES

1. **FORCIBLE:** Any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent. This includes attempts.
 - a. **FORCIBLE RAPE:** The carnal knowledge of a person, forcibly and/ or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth).
 - b. **FORCIBLE SODOMY:** Oral or anal sexual intercourse with another person; forcibly and against the person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
 - c. **SEXUAL ASSAULT WITH AN OBJECT:** The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person; forcibly and against the person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity. (An object or instrument is anything used by the offender other than the offender's genitalia.)
 - d. **FORCIBLE FONDLING:** The touching of the private parts of another person for the purpose of sexual gratification, forcibly and against the person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
2. **NON-FORCIBLE:** Any unlawful, non-forcible sexual intercourse.

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- A. **STATUTORY RAPE:** Non-forcible sexual intercourse with a person who is under the statutory age of consent. (In Kentucky the age of consent is sixteen (16) years old.)
- B. **INCEST:** Non-forcible sexual intercourse between persons who are related to each other within degrees wherein marriage is prohibited by law.
- C. **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 or violence and/or by putting the victim in fear.
- D. **ASSAULT:**
 - 1. **AGGRAVATED ASSAULT:** An unlawful attack by one person upon another wherein the offender uses a weapon or displays it in a threatening manner, or the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.
 - 2. **SIMPLE ASSAULT:** An unlawful attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.
- E. **BURGLARY:** The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.
- F. **MOTOR VEHICLE THEFT:** The theft or attempted theft of a motor vehicle. (This does not include thefts *from* motor vehicles.) This includes all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned – including joyriding.
- G. **ARSON:** Any willful or malicious burning or attempt to burn, with or without the intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.
- H. **MENACING (KRS 508.050):** Intentionally placing another person in reasonable apprehension of imminent physical injury.
- I. **WANTON ENDANGERMENT:**
 - 1. **WANTON ENDANGERMENT IN THE FIRST DEGREE (KRS 508.060):** When, under circumstances manifesting extreme indifference to the value of human life, the defendant wantonly engages in conduct which creates a substantial danger of death or serious physical injury to another person.
 - 2. **WANTON ENDANGERMENT IN THE SECOND DEGREE (KRS 508.070):** Wantonly engaging in conduct which creates a substantial danger of physical injury to another person.
- J. **TERRORISTIC THREATENING:** To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or conduct but without displaying a weapon or subjecting the victim to actual harm.

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K. STALKING:

- 1. STALKING IN THE FIRST DEGREE (KRS 508.140):** Intentionally stalking another person and making an explicit or implicit threat with the intent to place that person in reasonable fear of sexual contact, serious physical injury, or death; and a protective order has been issued, or a criminal complaint is currently pending, or 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 the act or acts were committed while the defendant had a deadly weapon on or about his person.
- 2. STALKING IN THE SECOND DEGREE (KRS 508.150):** Intentionally stalking another person and making an explicit or implicit threat with the intent to place that person in reasonable fear of sexual contact, serious physical injury, or death.

L. CRIMINAL DAMAGE TO PROPERTY – VANDALISM: To willfully or maliciously destroy, injure, disfigure, or deface any public or private property, real or personal, without the consent of the owner or person having custody or control by cutting, tearing, breaking, marking, painting, drawing, covering with filth, or any other such means as may be specified by local law.

M. LARCENY-THEFT: The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. (Larceny and theft mean the same thing in the UCR.) **CONSTRUCTIVE POSSESSION** is the condition in which a person does not have physical custody or possession, but is in a position to exercise dominion or control over a thing.

N. CRIMINAL ATTEMPT (KRS 506.010): Intentionally engaging in conduct which would constitute the crime if the attendant circumstances were as he believes them to be; or intentionally doing or omitting to do anything which is a substantial step in a course of conduct planned to culminate in his commission of the crime; or engaging in conduct intended to aid another person to commit that crime, although the crime is not committed or attempted by the other person.

II. HATE CRIMES

Any criminal offense (as listed above) committed against a person or property which is motivated, in whole or part, by the offender's bias. Bias is a preformed negative opinion or attitude toward a group of persons based on their race, gender, religion, disability, sexual orientation or ethnicity/national origin.

A. CATEGORIES OF BIAS:

- 1. RACE:** A preformed negative attitude toward a group of persons who possess common physical characteristics (e.g., color of skin, eyes, and/or hair; facial features, etc.) genetically transmitted by descent and heredity which distinguish them as a distinct division of humankind (e.g., Asians, blacks, whites).
- 2. GENDER:** A preformed negative opinion or attitude toward a group of persons because those persons are male or female.
- 3. RELIGION:** A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being (e.g., Catholics, Jews, Protestants, atheists).

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4. **SEXUAL ORIENTATION:** A preformed negative opinion or attitude toward a group of persons based on their sexual attraction toward, and responsiveness to, members of their own sex or members of the opposite sex (e.g., gays, lesbians, heterosexuals).
5. **ETHNICITY/NATIONAL ORIGIN:** A preformed negative opinion or attitude toward a group of persons of the same race or national origin who share common or similar traits, languages, customs and traditions (e.g., Arabs, Hispanics).
6. **DISABILITY:** A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments/challenges, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age or illness

III. ARRESTS AND REFERRALS FOR DISCIPLINARY ACTION

The Clery Act requires reporting of arrests and referrals for disciplinary actions for the following violations:

- A. **WEAPONS: CARRYING, POSSESSING, ETC.:** The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices or other deadly weapons. This classification also encompasses weapons offenses that are regulatory in nature.
- B. **DRUG ABUSE VIOLATIONS:** The violations laws prohibiting the production, distribution and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing and making of narcotic drugs.
- C. **LIQUOR LAW VIOLATIONS:** The violation of state or local laws or ordinances prohibiting: the manufacture, sale, purchase, transportation, possession or use of alcoholic beverages, not including driving under the influence and drunkenness.

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Geography Definitions

On-campus category encompasses the following:

Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and

Any building or property that is within or reasonably contiguous to paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

On-campus Student Housing Facility

Any student housing facility that is owned or controlled by the institution, or is located on property that is owned or controlled by the institution, and is within the reasonably contiguous geographic area that makes up the campus is considered an on-campus student housing facility.

This definition includes the following types of housing:

- Undergraduate, graduate and married student housing.
- Single family houses that are used for student housing.
- Summer school student housing.
- Buildings that are used for student housing but also have faculty, staff or any other individuals living there. (Do not include faculty-only housing in this category. Institution-owned or controlled faculty-only housing that is located on the campus belongs only in the "on-campus" category.)
- Buildings that are owned by a third party that has a written agreement with your institution to provide student housing. It doesn't matter whether the rent is paid to the third party by the institution on behalf of the students or paid directly by the students.
- Housing for officially and not officially recognized student groups, including fraternity or sorority houses, that are owned or controlled by your institution or are located on property that your institution owns or controls.

Non-campus buildings or property is:

Any building or property owned or controlled by a student organization that is officially recognized by the institution; or Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

Study abroad programs: If your institution sends students to study abroad at an institution that you don't own or control, you don't have to disclose statistics for crimes that occur in those facilities.

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However, if your institution rents or leases space for your students in a hotel or student housing facility, you are in control of that space for the time period covered by your agreement.

Public property encompasses the following:

All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.